

County Tax Sale Procedural Manual

Volume III: Agreement Sale



March 2008

Controller *John Chiang*

California State Controller's Office





JOHN CHIANG
California State Controller

March 24, 2008

To the Tax Collectors of California:

I am pleased to provide you with the 2008 edition of the *County Tax Sale Procedural Manual*. This handbook is a result of the ongoing efforts of the State Controller's Office to keep the county tax collectors and their staff apprised of the most current laws, statutes, practices, and procedures concerning the various aspects of the tax sale process.

The handbook is presented in a four-volume set. This format is designed to provide clear, comprehensive, and specific instructions for each tax sale preparation process: Public Auction, Sealed Bid Auction, Agreement Sale, and Internet Auction.

If you have any questions, comments or input to the handbook please contact my staff in the Property Tax Collection Standards and Procedures Program at (916) 445-6321, or by email at propertytax@sco.ca.gov.

Sincerely,

original signed by,

JOHN CHIANG
California State Controller

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Section 1: Introduction

This *2008 County Tax Sale Procedural Manual, Volume III: Agreement Sale*, is the third volume of a four-volume set produced by the State Controller's Office, Property Tax Collection Standards and Procedures Program. These handbooks are designed to provide comprehensive instructions and recommendations on how to prepare, conduct, and complete each of the four types of tax sales outlined in the California *Revenue and Taxation Code*.

Although each of the four types of tax sales has its own distinctive features, many of the procedures involved in preparing and completing the sales are very similar and, in some cases, they are identical. As a result, readers of the handbooks may recognize similarities among the four volumes.

This handbook, Volume III, details the procedures necessary to conduct within the statutory requirements the agreement sale pursuant to Chapter 8, Part 6, Division 1, of the *Revenue and Taxation Code*. Unless otherwise indicated, all statutory references cited are from the *Revenue and Taxation Code*.

Section 2: Agreement Sale Overview

The material in this handbook is intended to provide an in-depth, step-by-step explanation of the procedures and processes necessary to properly conduct an agreement sale.

The agreement sale is designed to allow eligible taxing agencies or nonprofit organizations the opportunity to purchase tax-defaulted property for the purpose of public benefit and/or to offset the tax owed to them by utilizing some other characteristic of the property for financial compensation.

Because a completed agreement sale deprives a person of property ownership, specific procedural requirements have been legislated to ensure that individuals are afforded consistent and appropriate opportunities to retain their property. Legislation also gives counties the authority to initiate responsive measures should property owners fail to meet their property tax obligations. The general logistics concerning the sale of a property that has become tax-defaulted are as follows:

- When a property owner fails to pay his or her property tax by the final due date and becomes tax-delinquent, the tax collector sends the property owner, or assessee, a notice of impending default, followed by a declaration of default if the delinquency is not cured. The declaration of default opens a waiting period, during which the defaulted taxes, penalties, and costs accumulate until redeemed.
- At the end of this period, if the taxes remain unredeemed, the tax collector has the power to sell the property. If the property is residential or farmland, the waiting period is five years. If the property is nonresidential commercial property, the waiting period is three years. If your county board of supervisors has, by resolution or ordinance, opted out of the three-year provisions for commercial property, the waiting period is five years. Property may also be eligible for sale after three years if a nuisance abatement lien has been recorded against the property, or if a qualified public agency or nonprofit organization has identified a property it needs for low-income housing and has sent a completed application to the county.
- Before the sale, the tax collector is required to notify the assessee and any other parties of interest of the tax collector's power and intent to sell the property for nonpayment of taxes. The property must meet specific conditions to qualify for sale at an auction.

After a parcel becomes subject to the power of sale, any eligible taxing agency, public agency, or nonprofit organization may initiate a purchase proposal to buy the parcel without bidding at a public auction or sealed bid sale. However, before the sale, the tax collector is required to notify the assessee and any other parties of interest of the tax collector's power and intent to sell the property for nonpayment of taxes. In addition, the property must meet specific conditions to qualify for an agreement sale.

Only after all of the statutory requirements are met can the county board of supervisors or its designee exercise their authority to negotiate the sale of property. The sale must be conducted at least 30 days after notification by certified mail of all ascertainable parties of interest.

Upon completion of the sale, the tax collector must file reports with the county recorder, the assessor, and the State Controller's Office to address the transfer of title and the distribution of sale proceeds. Additionally, for one year following the sale, the tax collector must respond to challenges concerning the validity of the sale and excess proceeds claims.

Section 3: Significant Factors Timeline

The timeframes for each of the significant factors are given in ranges rather than in fixed increments. In most cases, the range boundaries are designed as suggested upper and lower cutoff points from which certain tasks should begin. However, the significant factors that are bolded and followed by an asterisk are somewhat different. For these entries, the later cutoff point is the deadline to *complete* the task, rather than a suggested time to begin. It is important not to miss these cutoff points, because they are, in most cases, statutory deadlines.

Finally, because several requirements dictate when the actual sale may occur, and each of these requirements is contingent upon a block of tasks being completed, the significant factors are divided into three discrete sections: Pre-Sale Authorization from the State Controller, Post-Sale Authorization from the State Controller, and Process after Mailing the Notice to Parties of Interest.

Pre-Sale Authorization from the State Controller

Review the Purchase Proposal Application	35 to 20 days prior to submitting the request for the State Controller's authorization
Prepare the Request for Approval from the Board of Supervisors or Its Designee	25 to 15 days prior to submitting the request for the State Controller's authorization
Submit the Approval Request to the Board of Supervisors or Its Designee	20 to 10 days prior to submitting the request for the State Controller's authorization
Prepare the Request for the State Controller's Office Authorization	10 to 5 days prior to submitting the request for the State Controller's authorization
Submit the Request for the State Controller's Office Authorization	End of first timeline. Allow 15 days for authorization results from the State Controller.

Post-Sale Authorization from the State Controller

Search for Parties of Interest	40 to 30 days prior to mailing the Notice to Parties of Interest
Send Notice to the IRS	20 to 35 days after mailing the Notice to Parties of Interest (mailing must occur no less than 4 days prior to the first published/posted Notice of Sale)
Mail the Notice to Parties of Interest	End of second timeline. From this point, the sale must take place between 45 day and 60 days from notice mailing.

Process after Mailing the Notice to Parties of Interest

Publish/Post the Notice of Sale	24 to 39 days* <i>after</i> the Notice to Parties of Interest has been mailed
Agreement Sale Becomes Effective	Day of the agreement sale, on the 21st day* <i>after</i> the first published or posted notice
Report to the Assessor	Up to 10 days* <i>after</i> the sale
Report to the Auditor and the Treasurer	Up to 10 days* <i>after</i> the sale
Mail or Publish the Notice of Excess Proceeds	0 to 90 days* <i>after</i> the sale
Prepare the Tax Deeds	Up to 60 days <i>after</i> the sale
Send Copies of the Tax Deeds and the Report of Sale to the State Controller	Up to 60 days <i>after</i> the sale
Distribute Excess Proceeds	Commencing one year* <i>after</i> the sale

Each of the *statutorily required* events contained in the above timeline is also listed on the Checklist of Mandatory Requirements Sale By Agreement (form AGF-1) on page 5.

CHECKLIST OF MANDATORY REQUIREMENTS SALE BY AGREEMENT

RESOLUTION/AGREEMENT SALE NO. _____

DATED _____

The following requirements should be fulfilled to lawfully initiate, process, conduct, and complete a tax sale by agreement under Part 6 of the Revenue and Taxation Code.

- ☐ Obtaining a signed Agreement form by agency or entity and the board of supervisors (§§3772, 3791, 3791.3, 3791.4, 3792, and 3795)
- ☐ Obtaining a document showing approval of the purchase price by the county board of supervisors and the Controller (when the county or state is purchasing property), and additional approval by the city when property is within the city's limits (§3775)
- ☐ Submitting one executed copy of the agreement to the State Controller for approval (§3795)
- ☐ Obtaining an Authorization by State Controller directing the tax collector to give notice of the agreement (§§3796 and 3797)
- ☐ Distributing one copy of the agreement sale package to each party (§3795)
- ☐ Mailing a Notice of Sale to each owner and party of interest (not less than 45 nor more than 60 days before the proposed sale) (§3799)
- ☐ Contacting, in person, each owner-occupant of property that is the primary residence of the last known assessee within a period of not more than 120 days nor less than 10 days prior to the date of sale. If contact in person is not possible, posting a notice on the property not less than five days prior to date of sale (§3704.7)
- ☐ Publishing a Notice of Sale in a newspaper of general circulation (the first publication shall be started not less than 21 days nor more than 60 days prior to the effective sale date) (§3798)
- ☐ Recording a Tax Deed to the Purchaser of Tax-Defaulted Property, conveying title to the purchasing agency or entity, and mailing a duplicate copy to the State Controller (§§3804, 3804.2, and 3805)
- ☐ Submitting a Report of Sale on all unsold parcels to the State Controller (§3811)
- ☐ Submitting a Report of Sale to the county assessor and the auditor (§3811)
- ☐ Notating the facts of the sale on the delinquent roll (abstract) and the current roll (§3813)

*All code section citations pertain to the Revenue and Taxation Code.

Note: Address all items mailed to the State Controller's Office as follows:

State Controller's Office/Division of Collections
Bureau of Tax Administration
Property Tax Collection Standards and Procedures
P. O. Box 942850
Sacramento, CA 94250

AGF-1 (SCO 8-17.1)

Section 4: Identifying the Purchasing Entity

At any time after the tax collector records a Notice of Power to Sell for a tax-defaulted property pursuant to §3691, any eligible taxing agency, revenue district, city, redevelopment agency, special district, or nonprofit organization may submit a proposal to purchase the property (§3773). Because the Chapter 8 sale is initiated by an outside agency, the scheduling of such a sale is not predictable. However, once a purchase proposal is received, there is a definite schedule that you should follow, with certain tasks and related timelines dictated by statute.

Step 1: Upon receipt of a purchase proposal, identify the type of entity. There are two categories:

- 1) **Public Agency** – This includes taxing agencies, revenue districts, redevelopment agencies, special districts, cities, counties, and state agencies.
- 2) **Nonprofit Organization** – This must be an entity that includes among its bylaws a statement of incorporation for the purpose of acquiring single-family dwellings for rehabilitation and sale or rental to low-income persons, vacant land for construction of low-income housing, or vacant land to be dedicated to public use (§3772.5).

Step 2: Depending on the nature of the purchasing entity, proceed to the appropriate section.

- *If the entity is a public agency*, proceed to **Section 5: Public Agency Purchase Eligibility Review**, page 7.
- *If the entity is a nonprofit organization*, proceed to **Section 7: Nonprofit Organization Purchase Eligibility Review**, page 19.

Section 5: Public Agency Purchase Eligibility Review

Taxing agencies, revenue districts, redevelopment agencies, and special districts are eligible to acquire tax-defaulted property without taking part in a public auction. They may also request that the tax collector withdraw property that is currently scheduled for public auction if the agency provides compelling evidence that the tax-defaulted property is or may be needed for public use (§3695.4).

Purchasing Conditions

A public agency may apply to purchase parcels as follows:

- 1) Submitting a written application to purchase a parcel that is currently in tax default pursuant to §3691 but not yet approved for any other tax sale.
- 2) Submitting a written application to purchase a parcel, along with an objection to the sale of that parcel if it is currently approved for public auction or sealed bid sale.

Note: The State Controller's Office has designed a sample application form for distribution to purchasing entities (see form AGF-16 on page 8). ***We recommend that you use this form.*** If your office distributes its own form, you may continue to use it, but it must contain all of the the data fields that appear in AGF-16.

Step 1: Determine the procedure by which the purchase is being proposed.

- *If the application to purchase the parcel follows Procedure 1 above, proceed to the following subsection, Qualifications and Conditions of Sale to a Public Agency, on page 9.*
- *If the application to purchase the parcel follows Procedure 2 above, proceed to Step 2 below.*

Step 2: Determine when the application was submitted to the tax collector's office.

- *If the purchase application was submitted **before** the date of the first published or posted Notice of Sale, proceed to the following subsection, Qualifications and Conditions of Sale to a Public Agency, on page 9.*
- *If the purchase application was submitted **after** the date of the first published or posted Notice of Sale, stop the review and return the application to the agency. Inform the agency that objections and agreement sale purchase proposals are not valid if they are submitted after the date of a public auction or sealed bid sale.*

Application to Purchase Tax-Defaulted Property from County

This application must be completed by an eligible purchasing entity to commence purchase of tax-defaulted property by agreement sale from the county under applicable provisions of the California Revenue and Taxation Code. Complete the following sections and supply supporting documentation. Completion of this application does not guarantee purchase approval.

A. Purchaser Information

1. Name of Organization: _____
2. Corporate Structure – check the appropriate box below and provide the corresponding information:
 - ☐ Nonprofit – provide Articles of Incorporation
 - ☐ Public Agency – provide mission statement (if redevelopment agency or special district, provide jurisdiction map)

B. Purchasing Information

Determine which category the parcel falls under and then check the appropriate box as it relates to the purchasing entity's corporate structure and the intended use of the parcel: (Note: From the six choices, check only one)

Category A: Parcel is currently scheduled for a Chapter 7 tax sale

- ☐ Purchase by tax agency/revenue district to preserve its lien
- ☐ Purchase by State, county, revenue district, special district, or redevelopment agency for public purpose
- ☐ Purchase by nonprofit for low-income housing or to preserve open space

Category B: Parcel is **not** currently scheduled for a Chapter 7 tax sale

- ☐ Purchase by taxing agency for public purpose
- ☐ Purchase by State, county, revenue district, special district, or redevelopment agency for public purpose
- ☐ Purchase by nonprofit for low-income housing or to preserve open space

C. Property Detail

Provide the following information. If you need more space for any of the criteria, consolidate the information into a separate "Exhibit" document and attach it to this application:

1. County where the parcel(s) is located: _____
2. List each parcel by Assessor's Parcel Number: _____
3. State the purpose and intended use for *each* parcel: _____

D. Acknowledgement Detail

Provide the signature of the purchasing entity's authorized officer

Authorized Signature Title Date

AGF-16 (SCO 8-16)

Qualifications and Conditions of Sale to a Public Agency

Step 1: Determine whether the type of public agency and the conditions for the purchase match any of the following categories.

- 1) **Taxing Agency That Is Not also a Revenue District** – The State of California, a county, a city, or any district that assesses property for taxation purposes and levies taxes or assessments on the assessed property is included in this classification (§121 and §3791). A taxing agency that is not also a revenue district may acquire tax-defaulted property if it needs the property for a public purpose. A taxing agency that assesses and collects its own taxes may enter into a pro rata agreement with the county for the purpose of property resale if that agency has been owed delinquent taxes or assessments for at least two years prior to the date of the agreement.
- 2) **Taxing Agency That Is also a Revenue District** – A revenue district is every district whose taxes are assessed, levied, and collected by county officers. A taxing agency that is also a revenue district may acquire tax-defaulted property if it needs the property for a public purpose. Cities are considered both taxing agencies and revenue districts (§122).
- 3) **Redevelopment Agency** – A redevelopment agency is any agency created pursuant to the California Community Redevelopment Law. A redevelopment agency may purchase only property located within a "designated survey area" (§3791.3).
- 4) **Special Districts** – A special district can be any public agency not defined above. Special districts may be eligible to purchase property, but may have jurisdictional boundaries to consider. The county's Local Agency Formation Commission (LAFCo) should have documentation related to the jurisdiction of a special district.

Note: You may consult county counsel as an additional measure to verify whether a public agency is qualified to purchase.

Step 2: Once you have determined the type of public agency and whether or not it meets the eligibility requirements outlined in this subsection, proceed to the following subsection.

Property Description

Locate the parcel description in the agreement proposal.

Existing Parcel Conditions

Ensure that the parcel has no existing condition that would disqualify it from being offered at an agreement sale. Appendix I, pages 61--63, describes conditions that can disqualify a parcel and explains how to remedy those conditions, if possible.

Step 1: Determine whether one or more of the following conditions exist for each parcel.

- 1) **Bankruptcy** – Parcel files may be flagged with information about bankruptcy proceedings. If the files are not flagged or the information is not current, do not conduct any further research on the bankruptcy status until the parties-of-interest search is begun or proper notification of a bankruptcy is received from the assessee.
- 2) **Unprobated Property** – If the file for a particular parcel contains any returned letters showing that the assessee is deceased, follow up with the county public administrator to determine whether probate of the decedent's estate has commenced.
- 3) **Contaminated Property** – The State Controller's Office recommends asking the environmental health and safety agency to review the list of parcels to determine whether any properties are or may be contaminated.
- 4) **Damaged Property** – If a property has sustained damage, determine whether the cause was related to a county, state, or federally declared disaster. Your office may have files or records containing this information, including dates and locations. If not, you may obtain the information by calling the Governor's Office of Emergency Services (OES), Disaster Assistance Office, at (916) 845-8100 or by sending a fax to (916) 845-8388. The OES Web site address is www.oes.ca.gov.
- 5) **Cemetery Property** – If the property is a known cemetery, determine whether it falls under the requirements of Health and Safety Code Section 8585. You may obtain this information by contacting the Department of Consumer Affairs, Cemetery & Funeral Bureau at (916) 574-7870. The web address is www.cfb.ca.gov.

Note: A cemetery under a historical society's jurisdiction is exempted from any requirements under Health and Safety Code Section 8585.

Step 2: If any of the above conditions exist, proceed according to the appropriate instruction below.

- 1) **Bankruptcy** – If the assessee has filed bankruptcy proceedings, the property ***cannot be sold***. However, an opportunity may exist to remedy the situation before the date of the sale (see item 4 on page 61). In the interim, you may continue to prepare the parcel for sale as outlined in this handbook, including notifications.
- 2) **Unprobated Property** – If the assessee is deceased and no probate has commenced, the property ***cannot be sold***. However, an opportunity may exist to remedy the situation before the date of the sale (see item 9 on page 64 for more information).
- 3) **Contaminated Property** – Parcels that are on the Superfund list, if any, should be removed from the sale. Contaminated parcels not on the Superfund list may be offered for sale, but the information about the contamination should be disclosed to prospective buyers.

Note: The tax collector's office may have Superfund list information for your county. If not, contact the Department of Toxic Substances Control (DTSC) at (916) 323-3400, and its Web Site address is www.dtsc.ca.gov/sitecleanup. The

federal Environmental Protection Agency's Web site address is www.epa.gov/region09/waste/.

- 4) **Damaged Property** – If a tax-defaulted property has sustained damage due to a local, state, or federally designated disaster, the default status is suspended (tolled) for a period of up to five years. During this tolled period, the tax collector's power of sale cannot arise, and the property is ineligible for sale (§3691).

However, if and when the damage is substantially repaired or after five years from the date of damage, whichever comes first, the tolled period ends and the default status resumes. (See page 69 for a method of calculating the default and power to sell schedule for a disaster-damaged property.)

If you have questions on the tolling period or a specific situation, please contact the State Controller's Office, Property Tax Collection Standards and Procedures Program, at (916) 322-3918 or by e-mail at propertytax@sco.ca.gov.

Homeowner's Exemption/Situs

Determine whether the parcel has a valid homeowner's exemption. This information is located on the tax roll.

Note: If you cannot find the homeowner's exemption on the tax roll, check the roll to determine whether the mailing address for the last tax bill is the same as the situs.

If the parcel does have a homeowner's exemption, you must make a personal contact visit in addition to mailing a Notice to Parties of Interest. For instructions concerning the personal contact visit, refer to page 29, Volume I, of the *County Tax Sale Procedural Manual*.

Review Completion

Once the review is completed, proceed to **Section 6: Public Agency Application Requirements**, page 12.

Section 6: Public Agency Application Requirements

Eligible public agencies may purchase all or any portion of tax-defaulted property subject to the tax collector's power to sell, including a right of way or other easement. Multiple parcels may be consolidated into one purchase agreement. The agreement may provide for either the purchase of or an option to purchase tax-defaulted properties. An option to purchase is limited to a period of three years (§3794).

The public agency should be encouraged to acquire the entire interest in the property if the acquisition of a right of way or other easement would impair the salability of the remaining portion of the property.

The purchaser must submit the *executed* agreement, including all supporting documents.

Note: "Executed" means that the signatures and titles of all authorizing officials appear on the agreement. The signatures of all attestants, their respective titles, and the seals of their individual offices must be included.

Purchase Agreement

Use a form outlining the conditions of the sale for all purchase agreements between eligible public agencies and the county board of supervisors or its designee. The State Controller's Office has designed a sample purchase agreement form (see form AGF-2 on page 16). *We recommend that you use this form.* However, if your office has an existing form, you may continue to use it.

Note: *Do not use these form criteria for agreement sales with nonprofit organizations.* Refer to **Section 7: Nonprofit Organization Purchase Eligibility Review** on page 19 for information on nonprofit agreement sales.

The purchase agreement should contain the five elements listed below.

- 1) **Date** – The agreement must be dated.
- 2) **Name of the Purchasing Agency** – This must be entered on the purchase agreement in the same manner in which the agency is to acquire title. The taxing status of the agency must be shown directly after the name of the agency. For example:
 - The City of Watsonville, a municipal corporation, as a Taxing Agency
 - The State of California, acting by and through its Department of General Services, as a Taxing Agency
 - The Sacramento County Flood Control District, as a Revenue District
 - The East Los Angeles Redevelopment Agency
 - The Green Valley Water District, as a Special District

- 3) **Property Description** – The property must be identified by the Assessor's Parcel Number(s), the default number, the fiscal year of default, and either the metes-and-bounds or lot-and-block description.

If all of the elements required for the property description will not fit on the agreement, you may use an “Exhibit” document (see form AGF-3 on page 18) to accommodate the description of the property. Attach the Exhibit to the form outlining the agency’s statement of purpose for the acquisition.

Note: It is recommended that you include a copy of the recorded Notice of Power to Sell and a copy of the assessor's parcel map for expedient and accurate verification of parcel identity.

- 4) **Purchase Amount** – This is determined as follows:

- *If the property is currently authorized by the board of supervisors or its designee to be sold by a Chapter 7 sale, and therefore a minimum bid amount has already been established using Chapter 7 procedures, the purchase price must be equal to the minimum bid approved and set by the board. Under no circumstances may the property be sold for less (§3695). For more information on Chapter 7 procedures, refer to the first two volumes (*Public Auction* and *Sealed Bid Sale*, respectively) of this handbook.*
- *If the property has never been authorized for sale pursuant to Chapter 7, the purchase price may be negotiated between the purchaser and the board. The tax collector can recommend a sale price to the board. (See pages 64-65 for an outline of costs that may be incorporated into a recommended purchase price.)*

Note: In applying the methods above to calculate the minimum bid, it is important to remember that the redemption penalties and fees portion must be based on the amount due during the month for which the parcel will be sold (§3793.1). Consequently, if the intended schedule is delayed, the amount would need to be increased accordingly. As such, this statutory requirement and fact should be incorporated into the agreement sale contract to avoid any misunderstanding should the purchase price need to be adjusted.

- *If the property has already been offered at least once for a Chapter 7 sale but has not sold **and** the property is not currently authorized for a new Chapter 7 sale, you may lower the purchase price, with the approval of the board of supervisors or its designee (§3793.1(b)).*

Note: When a taxing agency, as defined by §3791, objects to the sale of tax-defaulted property, it is not entitled to a portion of the distribution of the sale proceeds (§3720). Ensure that this circumstance is addressed in the terms and conditions of the agreement. Number 4 of the sample form AGF-2 on page 16 includes a paragraph recommended for inclusion.

- 5) **Terms and Conditions** – The board or its designee may set terms and impose conditions regarding the conveyance to and use of the property by the acquiring agency.
- A) **Sale Costs** – The board or its designee may require the purchasing agency to pay for other expenses beyond the purchase price of the property. These expenses may include, but are not limited to:
- i) Cost of publication
 - ii) Cost of a guaranty of title
 - iii) Cost of proceedings to obtain a clear title to the property
 - iv) Expenses incurred in the payment, compromise, or other method of removal of any liens or adverse claims against the property
- B) **Purchase Resolution** – Include a copy of the agency’s resolution to purchase the property with the purchase proposal.

Parties to the Agreement

Note: No agreement is valid until it is approved by the State Controller (§3795).

- *If the purchaser is the State of California or a county, and the property lies within the boundaries of a city*, the city must approve the purchase price (§3775).
- *If the purchaser is a city*, the signatories to the agreement are the governing body of the city, the board of supervisors or its designee, and the State Controller.
- *If the purchaser is a taxing agency*, the signatories to the agreement are the governing body of the taxing agency, the board of supervisors or its designee, and the State Controller.
- *If the purchaser is a revenue district*, the signatories to the agreement are the governing body of the revenue district, the board of supervisors or its designee, and the State Controller.
- *If the purchaser is a redevelopment agency*, the signatories to the agreement are the governing body of the redevelopment agency, the board of supervisors or its designee, and the State Controller.
- *If the purchaser is the State*, the signatories to the agreement are the director of the Department of General Services on behalf of the purchasing agency (or the agency itself if authorized by law to purchase on its own behalf), the board of supervisors or its designee, the State Controller, and the governing body of the city in which the property is located, if the property is within a city.
- *If the purchaser is a county*, the signatories to the agreement are the board of supervisors or its designee on behalf of the purchasing agency within the county (e.g., the county flood control district, parks and recreation district), the board of supervisors or its designee for the county at large, the State Controller, and the governing body of the city in which the property is located, if the property is within a city.

- *If the purchaser is a special district*, the signatories to the agreement are the governing body of the special district, the board of supervisors or its designee on behalf of the purchasing agency within the county (e.g., the county flood control district, parks and recreation district), the board of supervisors or its designee for the county at large, the State Controller, and the governing body of the city in which the property is located, if the property is within a city.

Note: The facsimile signature of the chairperson of the board of supervisors or its designee is acceptable. A facsimile signature has the same authority as an original signature.

Review Completion

Once the review is completed and all required documents are assembled, proceed to **Section 9: Requesting Approval from the Board of Supervisors**, page 29.

AGREEMENT TO PURCHASE TAX-DEFAULTED PROPERTY

This Agreement is made this _____ day of _____, _____, by and between the Board of Supervisors of _____ County, State of California, and _____ ("PURCHASER"), pursuant to the Provisions of Division 1, Part 6, Chapter 8, of the Revenue and Taxation Code.

The real property situated within said county, hereinafter set forth and described in this agreement, is tax-defaulted and is subject to the power of sale by the tax collector of said county for the nonpayment of taxes, pursuant to provisions of law.

It is mutually agreed as follows:

1. That, as provided by Revenue and Taxation Code §3800, the cost of giving notice of this agreement shall be paid by the PURCHASER, and
2. That the PURCHASER agrees to pay the sum of \$ _____ for the real property described in Exhibit "A" within _____ (____) days after the date this agreement becomes effective. Upon payment of said sum to the tax collector, the tax collector shall execute and deliver a deed conveying title to said property to PURCHASER.
3. That the PURCHASER agrees to use the parcel(s) for public purpose under the following intent:

4. That, if said purchaser is a taxing agency as defined in Revenue and Taxation Code §121 or any other agency that receives its revenue share under the provisions of Division 1, Part 8, Chapter 3 of the Revenue and Taxation Code, it will not share in the distribution of the payment required by the Agreement as defined by §3791 and §3720 of the Revenue and Taxation Code.

If all or any portion of any individual parcel described in this agreement is redeemed prior to the effective date of this agreement, this agreement shall be null and void as to that individual parcel.

AGF-2 (SCO 8-13)
(Front)

The undersigned hereby agree to the terms and conditions of this agreement and are duly authorized to sign for said agencies.

ATTEST:

(Purchaser)

(seal)

By _____

ATTEST: BOARD OF SUPERVISORS

Clerk of the Board of Supervisors

By _____ COUNTY

By _____
Deputy

(seal)

By _____
Chair

If the property is located within the boundaries of a city, add this signature block:

Pursuant to the provisions of Section 3775 of the Revenue and Taxation Code, the governing body of the City of _____ hereby agrees to the sale price as provided in this agreement.

ATTEST: CITY OF _____

Deputy

(seal)

By _____
Mayor

If the agreement is with the State or the county, use this signature block:

Pursuant to the provisions of Section 3775 of the Revenue and Taxation Code, the Controller agrees to the selling price hereinbefore set forth and, pursuant to the provisions of Section 3795, approves the foregoing agreement this _____ day of _____, _____.

For agreements with agencies except the State or the county, use this signature block:

Pursuant to the provisions of Section 3795 of the Revenue and Taxation Code, the Controller approves the foregoing agreement this _____ day of _____, _____.

JOHN CHIANG, CALIFORNIA STATE CONTROLLER

By _____

**AGF-2 (SCO 8-13)
(Back)**

Exhibit "A"

<u>Description</u>	<u>First Year Delinquent</u>	<u>Default Number</u>	<u>Purchase Price</u>
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AGF- 3 (SCO 8-14)

Section 7: Nonprofit Organization Purchase Eligibility Review

Nonprofit organizations that meet certain criteria may also purchase property under the provisions of Chapter 8 of the *Revenue and Taxation Code*. A nonprofit organization may purchase property only for the purposes of constructing or rehabilitating property to rent or sell to low-income persons, dedicating vacant land for open space, or otherwise using the property to serve low-income persons (§3791.4).

Purchasing Conditions

A nonprofit organization may apply to purchase parcels as follows:

- 1) By submitting an application form to purchase a parcel that is currently in tax default pursuant to §3691 but not yet approved for any other tax sale.
- 2) By submitting an application form to purchase a parcel, along with an objection to the sale of that parcel currently approved for public auction or sealed bid sale.

Note: The State Controller's Office has designed a sample application form for distribution to purchasing entities (see form AGF-16 on page 8). ***We recommend that you use this form.*** If your office distributes its own form, you may continue to use it, but it must contain all of the data fields that appear in AGF-16.

Step 1: Determine the procedure by which the purchase is being proposed.

- *If the application to purchase the parcel follows Procedure 1 above, proceed to the following subsection, Qualifications and Conditions of Sale, on the next page.*
- *If the application to purchase the parcel follows Procedure 2 above, proceed to Step 2 below.*

Step 2: Determine when the application was submitted to the tax collector's office.

- *If the purchase proposal was submitted to the tax collector's office **before** the date of the first published or posted Notice of Sale, proceed to the following subsection, Qualifications and Conditions of Sale, on the next page.*
- *If the purchase proposal was submitted to the tax collectors' office **after** the date of the first published or posted Notice of Sale, stop the review and return the application to the organization. Inform the organization that objections and purchase agreement proposals are not valid if they are submitted after the date of the first publication.*

Qualifications and Conditions of Sale

- Step 1:** Determine whether the nonprofit entity is incorporated in the state of California (§3772.5(b)).
- Step 2:** Verify that the entity is incorporated for the purpose of acquiring single-family dwellings for rehabilitation and sale to low-income persons, vacant land for construction of low-income housing, or vacant land to be dedicated to public use.

A nonprofit entity incorporated as a church, a general philanthropy organization, or a nonprofit with other charitable purposes is qualified to purchase through Chapter 8 proceedings *only* if its bylaws include any of the aforementioned purposes.

Note: You may consult county counsel as an additional measure to verify whether a nonprofit corporation is qualified to purchase a property. County counsel may recommend that a qualified nonprofit entity submit additional supporting documentation or that additional conditions be made a part of the purchase agreement.

- Step 3:**
- *If the nonprofit entity meets **both** of the criteria from Steps 1 and 2 above, proceed to the following subsection.*
 - *If the nonprofit entity fails to meet **either one** of the criteria from Steps 1 and 2 above, the entity cannot purchase the parcel under the Chapter 8 agreement sale process. However, the entity may bid on the property at a public auction.*

Property Description

A description of the parcel must be included with the purchase proposal package.

Existing Parcel Conditions

Ensure that the parcel has no existing conditions that would disqualify it from being sold. Appendix I, pages 59-61, describes conditions that can disqualify a parcel from being sold by agreement sale and explains how to remedy those conditions, if possible.

- Step 1:** Determine whether any of the following conditions exist for any parcel:

- 1) **Bankruptcy** – Parcel files may be flagged with information about bankruptcy proceedings. If files are not flagged or the information is not current, do not conduct any further research on the bankruptcy status until the parties-of-interest search is begun or notification of a bankruptcy is received from the assessee.
- 2) **Unprobated Property** – If the file for a particular parcel contains any returned letters showing that the assessee is deceased, follow up with the county public administrator to determine whether probate of the decedent's estate has begun.
- 3) **Contaminated Property** – The State Controller's Office recommends asking the environmental health and safety agency to review the list of parcels and determine whether any properties are or may be contaminated.

- 4) **Damaged Property** – If a property has sustained damage, determine whether the cause was related to a county, state, or federally declared disaster. Your office may have files or records containing this information, including dates and locations. If not, obtain the information by calling the Governor’s Office of Emergency Services (OES), Disaster Assistance Office, at (916) 845-8100 or by sending a fax to (916) 845-8388. The OES Web site address is www.oes.ca.gov.
- 5) **Cemetery Property** – If the property is a known cemetery, determine whether it falls under the requirements of Health and Safety Code Section 8585. You may obtain this information by contacting the Department of Consumer Affairs, Cemetery & Funeral Bureau at (916) 574-7870. The web address is www.cfb.ca.gov.

Note: A cemetery under a historical society’s jurisdiction is exempted from any requirements under Health and Safety Code Section 8585.

Step 2: If any of the above conditions exist, proceed according to the appropriate instruction below.

- 1) **Bankruptcy** – If the assessee has filed bankruptcy proceedings, the property ***cannot be sold***. However, an opportunity may exist to remedy the situation before the date of the sale (see item 4 on page 59). In the interim, you may continue to prepare the parcel for sale as outlined in this manual, including notifications.
- 2) **Unprobated Property** – If the assessee is deceased and no probate has commenced, the property ***cannot be sold***. However, an opportunity may exist to remedy the situation before the date of the sale (see item 9 on page 61 for more information).
- 3) **Contaminated Property** – Parcels that are on the Superfund list should be removed from the sale. Contaminated parcels not on the Superfund list may be offered for sale, but information about the contamination should be disclosed to prospective buyers.

Note: The tax collector’s office may have Superfund list information for your county. If not, contact the Department of Toxic Substances Control (DTSC) at 1001 I Street, Sacramento, CA 95814. The DTSC’s telephone number is (916) 323-3400, and its Web site address is www.dtsc.ca.gov/sitecleanup. The federal Environmental Protection Agency’s web site address is www.epa.gov/region09/waste/.

- 4) **Damaged Property** – If a tax-defaulted property has sustained damage due to a local, state, or federally designated disaster, it enters a tolling period of up to five years. During this tolling period, the default status is suspended, the tax collector’s power of sale cannot arise, and the property is ineligible for sale (§3691). If the damage is substantially repaired, the tolling period ends and the default period resumes at the point at which it was tolled, culminating in the property becoming subject to the power of sale after a total of five years in default (§3691).

If you have questions on the tolling period or a specific situation, please contact the State Controller’s Office, Property Tax Collection Standards and Procedures Program, at (916) 322-3918 or by e-mail at propertytax@sco.ca.gov.

Homeowner's Exemption/Situs

Determine whether the parcel has a valid homeowner's exemption. This information is located on the tax roll.

Note: If you cannot find the homeowner's exemption on the tax roll, check the roll to determine whether the last tax bill's mailing address and the situs are the same.

If a parcel does have a homeowner's exemption or the mailing address and situs address are the same, you must make a personal contact visit *in addition to* mailing a Notice to Parties of Interest. The tax collector or his or her agent must make a reasonable effort to contact the owner-occupant of the property in person not more than 120 days nor less than 10 days prior to the date of the sale (§3704.7(a)). For detailed instructions regarding the personal contact visit, refer to page 29, Volume I, of the *County Tax Sale Procedural Manual*.

Review Completion

Once the review is completed, proceed to **Section 8: Nonprofit Organization Application Requirements**, page 23.

Section 8: Nonprofit Organization Application Requirements

Eligible nonprofit organizations may purchase all or any portion of residential or vacant tax-defaulted property subject to the tax collector's power to sell. It is important to know that the purchasing criteria for a nonprofit organization are very different from those for a public agency when the parcel is being sold via a Chapter 8 sale. These differences are outlined below.

The potential purchaser must submit a completed and ***executed*** copy of the purchase agreement, with all supporting documents.

Note: "Executed" means that the signatures and titles of all authorizing officials appear on the agreement. The signatures of all attestants, their respective titles, and the seals of their individual offices must be included.

Purchase Agreement

Use a form outlining the conditions of the sale for all purchase agreements between eligible nonprofit organizations and the county board of supervisors or its designee. The State Controller's office has designed a sample purchase agreement form (see form AGF-4 on pages 26-27). ***We recommend that you use this form.*** However, if your office has an existing form, you may continue to use it.

The purchase agreement should contain the following elements.

Note: Do not use these form criteria for agreement sales with public agencies.

- 1) **Date** – The agreement must be dated.
- 2) **“Substandard Building” Documentation** – If the property is acquired for rehabilitation and sold or rented as low-income housing, the purchase agreement must include documentation from the local building department certifying that the property is currently substandard, as defined in §17920 of the *California Health and Safety Code* (§3772.5(c)).
- 3) **Property Description** – The property must be identified by the Assessor's Parcel Number(s), the default number, the fiscal year of default, and either the metes-and-bounds or the lot-and-block description.

If all of the elements required for the property description do not fit on the agreement, you may use an “Exhibit” document (see form AGF-3 on page 28) to accommodate the description of the property. Attach the Exhibit to the form outlining the agency’s statement of purpose for the acquisition.

Note: It is recommended that you include a copy of the recorded Notice of Power to Sell and a copy of the assessor's parcel map for expedient and accurate verification of parcel identity.

- 4) **Purpose of Acquisition** – The purchase agreement must include a signed statement declaring the purpose of the acquisition and the subsequent disposition of the property. The property must be used for rehabilitation or construction of residential dwellings, *or for other use*, to serve low-income persons (§3772.5(b)). The statutes do not currently define “other use.”
- 5) **Purchase Amount** – This is determined by one of the following methods.
- *If the property is currently authorized by the board of supervisors or its designee to be sold by a Chapter 7 sale, and therefore a minimum bid amount has already been established using Chapter 7 procedures, the purchase price must be equal to the minimum bid approved and set by the board or its designee. Under no circumstances may the property be sold for less (§3695). For more information on Chapter 7 procedures, refer to the first two volumes of this guide.*
 - *If the property has never been authorized for sale pursuant to Chapter 7, the purchase price may be negotiated between the purchaser and the board or its designee. The tax collector may recommend a sale price to the board or its designee. While the price is negotiable, it must not be less than the amount required to redeem plus costs (§3791.1). (See pages 64-65) for an outline of costs that may be incorporated into a recommended purchase price.)*
- Note: In applying the methods above to calculate the minimum bid, it is important to remember that the redemption penalties and fees portion must be based on the amount due during the month for which the parcel is eventually sold (§3793.1). Consequently, if the intended schedule is delayed, the amount would need to be increased accordingly. As such, this statutory requirement and fact should be incorporated into the agreement sale contract to avoid any misunderstanding should the purchase price need to be adjusted.
- If the property has already been offered at least once for a Chapter 7 sale but has not sold **and** the property is not currently authorized for a new Chapter 7 sale, you may lower the purchase price, with the approval of the board of supervisors or its designee (§3793.1(b)).
- 6) **Terms and Conditions** – The board or its designee may set terms and impose conditions regarding the conveyance to and use of the property by the acquiring nonprofit organization (§3795.5). If the board establishes any terms or conditions, they shall include, but are not limited, to the following:
- 1) **Project Compliance** – Documentation showing consistency and compliance with the jurisdiction’s consolidated plan or community development plan. It is recommended that the documentation be in the form of a letter or resolution signed by an officer of the local jurisdiction that administers the housing plan for the region
 - 2) **Articles of Incorporation** – The purchase agreement must include a copy of the nonprofit organization's articles of incorporation, approved by the California Secretary of State, clearly stating the purpose of rehabilitating or constructing low-income housing or dedicating vacant land to public use.

Note: A nonprofit entity that does not include the above purpose in its incorporation papers is not qualified to purchase property through Chapter 8 proceedings.

Other terms or conditions not specifically outlined by statute, but granted to the board under the general authority of *Revenue and Taxation Code* §3795.5, may include:

- 1) **Sale Costs** – The board or its designee may require the purchasing nonprofit entity to pay for other expenses beyond the purchase price of the property. These expenses may include, but are not limited to:
 - A) Cost of publication
 - B) Cost of a guaranty of title
 - C) Cost of proceedings to obtain a clear title to the property
 - D) Expenses incurred in the payment, compromise, or other method of removal of any liens or adverse claims against the property
- 2) **Project References** – The board may ask the nonprofit organization to include a list of successful projects and/or references and any other documentation deemed necessary.
- 3) **Purchase Resolution** – A copy of the nonprofit organization's resolution to purchase the property should be included with the purchase proposal.

Review Completion

Once the review is completed and all required documents are assembled, proceed to **Section 9: Requesting Approval from the Board of Supervisors**, page 29.

AGREEMENT TO PURCHASE TAX-DEFAULTED PROPERTY

This Agreement made on this _____ day of _____, _____, by and between the Board of Supervisors of _____ County, State of California, and _____

("PURCHASER"), pursuant to the provisions of Division 1, Part 6, Chapter 8, of the Revenue and Taxation Code,

The county ("SELLER"), subject to the State Controller's approval, does hereby agree to sell to the nonprofit corporation ("PURCHASER") that real property described in Exhibit "A" of this agreement, which was tax-defaulted for nonpayment of taxes and is now subject to the tax collector's power of sale.

Payment Conditions:

PURCHASER agrees to pay the sum of \$_____ for the real property described in Exhibit "A" within _____ days after the date this agreement becomes effective. Upon payment of said sum to the tax collector, the tax collector shall execute and deliver a deed conveying title to said property to PURCHASER.

OR

PURCHASER agrees to pay the sum of \$_____ for the real property described in Exhibit "A" within _____ days after the date this agreement becomes effective. Payment is to consist of _____ installments of \$_____. Upon completion of payment of said sum to the tax collector, the tax collector shall execute and deliver a deed conveying title to said property to PURCHASER.

It is mutually agreed as follows:

- 1) That each parcel purchased under this agreement shall be used for projects involving rehabilitation or construction of housing for sale or rent to low-income persons or to preserve open space.
- 2) That the intended use of each parcel involving a low-income housing project has been reviewed by the appropriate county housing agency and determined, in writing, to be consistent and in compliance with the local jurisdictions' consolidated plan or community development plan.
- 3) That the PURCHASER is currently incorporated in the State of California and that its most current articles of incorporation are on file with the Secretary of State and include a statement of purpose as specified in subdivision (b) of Section 3772.5 of the Revenue and Taxation Code.

4)

- 5) *List any additional conditions of the agreement the board of supervisors may impose here.*

6)

If all or any portion of any individual parcel described in this agreement is redeemed prior to the effective date of this agreement, this agreement shall be null and void as to that individual parcel.

AGF-4 (SCO 8-15)
Front)

In witness to this agreement, the PURCHASER and the SELLER have subscribed the signature of their officers who are duly authorized to complete such document.

ATTEST:

BOARD OF SUPERVISORS:

By _____

Chair

A California Corporation

A California Corporation

By _____
Secretary

By _____
President/Vice President

Pursuant to the provisions of Revenue and Taxation Code §3775, the Controller agrees to the selling price herein before set forth and, pursuant to the provisions of §3795, approves the foregoing agreement this ____ day of _____, _____.

JOHN CHIANG, CALIFORNIA STATE CONTROLLER

by _____

AGF-4 (SCO 8-15)
(Back)

EXHIBIT "A"

<u>Description</u>	<u>First Year Delinquent</u>	<u>Default Number</u>	<u>Purchase Price</u>
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AGF- 3 (SCO 8-14)

Section 9: Requesting Approval from the Board of Supervisors

Once the review of the purchase proposal is completed, submit a request to approve the agreement sale to the county board of supervisors or its designee for review.

Step 1: Include in the request package the following items:

- 1) Complete *executed* copy of the agreement

Note: "Executed" means that the signatures and titles of all authorizing officials appear on the agreement. The signatures of all attestants, their respective titles, and the seals of their individual offices must be included.

- 2) All supporting documents

Step 2: Once the package is approved by the board or its designee, proceed to **Section 10: State Controller's Authorization**, page 30.

Section 10: State Controller's Authorization

The final step of the agreement sale approval process is to obtain the State Controller's Office authorization, pursuant to §3795 and §3795.5. In order to receive State Controller authorization, you must provide certain elements, depending on the type of sale. The four types of sale and corresponding elements are as follows.

1) Public Agency – Standard Purchase (Parcel not currently scheduled for Chapter 7 sale)

- Completed application (SCO form 8-16)
- The agency's mission statement (§3791 or §3791.3)
- If a redevelopment agency, a description/map of the survey area (§3791.3)
- If a special district, documentation showing parcel(s) to be within the jurisdictional boundary of the district, or the agency counsel's opinion that the boundary rules do not apply for intended purchase and use, or a statement from LAFCo that the parcel is in the district's sphere of influence
- The resolution and/or minutes documenting the public agency's authorization to purchase
- A document listing each parcel and a specific description of the purpose and intended use for each parcel
- If the parcel has a welfare exemption, a copy of an appraisal of the parcel's fair market value
- The current redemption amount
- A document verifying the board of supervisors' approval of the Chapter 8 sale (resolution, etc.), including the minimum purchase price of each parcel (§3694, §3698, §3791)
- Parcel description(s), e.g., APN, lot and block, and legal description (§3698)
- Plat map(s) (§3698)
- Notice(s) of Power to Sell (§3691)
- Executed agreement (form available through SCO) (§3795)

2) Public Agency – Objection Purchase (Parcel currently scheduled for Chapter 7 sale)

- All items from the list above, plus:
- Objection letter or statement including the date on which the letter or statement was submitted to the tax collector's office (§3695.4)
- Board of supervisors' resolution or sale approval document showing the minimum bid price of the particular parcel(s) for the Chapter 7 sale that is/are the subject of the objection (§3694 and §3698)
- A letter or note on county stationery or an affidavit from a newspaper showing the publication date of the first Notice of Sale for the Chapter 7 sale. *Note: If a notice of sale has not yet been published, provide a letter or note on county stationery stating this fact* (§3695.4).

3) Nonprofit Agency – Standard Purchase (Parcel not currently scheduled for Chapter 7 sale)

- Completed application (SCO form 8-16)
- Articles of incorporation (§3795.5)
- The resolution and/or minutes of the nonprofit organization, showing authorization to purchase
- A document listing each parcel and a specific description of the purpose and intended use for each parcel
- If rehabilitating a residential property, certification from the appropriate county agency verifying that the current property condition is substandard as defined in *Health and Safety Code* §17920(f) (§3772.5)
- A document certifying that the intended use for each parcel is consistent with the local jurisdiction's consolidated plan or community development plan (§3795.5)
- If the parcel has a welfare exemption, a copy of an appraisal of the parcel's fair market value
- The current redemption amount
- A document verifying the board of supervisors' approval of the Chapter 8 sale (resolution, etc.), including the minimum purchase price of each parcel (§3694, §3698, §3791)
- Parcel description(s), e.g., APN, lot and block, and legal description (§3698)
- Plat map(s) (§3698)
- Notice(s) of Power to Sell (§3691)
- Executed agreement (form available through SCO) (§3795)

4) Nonprofit Agency – Objection Purchase (Parcel currently scheduled for Chapter 7 sale)

- All items from the list above, plus:
- Objection letter or statement including the date on which the letter or statement was submitted to the tax collector's office (§3695.4)
- Board of supervisors' resolution or sale approval document showing the minimum bid price of the particular parcel(s) for the Chapter 7 sale that is/are the subject of the objection (§3694 and §3698)
- A letter or note on county stationery or an affidavit from a newspaper showing the publication date of the first Notice of Sale for the Chapter 7 sale. ***Note:** If a notice of sale has not yet been published, provide a letter or note on county stationery stating this fact (§3695.4).*

Send these materials to:

State Controller's Office/Division of Accounting and Reporting
Bureau of Tax Administration
Property Tax Collection Standards and Procedures
P.O. Box 942850
Sacramento, California 94250-5880

Agreement Approved

Once the State Controller's Office receives the request package, we will review the materials for compliance with all applicable statutes. Upon completion of the review, the Property Tax Collection Standards and Procedures Program of the State Controller's Office will keep a photocopy of the agreement package and will send the original back to the tax collector's office, along with the following:

- 1) The agreement, signed and affixed with the State Controller's seal.
- 2) A notice of the State Controller's authorization (see form AGF-6 on page 33). This notice certifies that the agreement has been approved by the State Controller and directs the tax collector to publish a notice of the agreement, pursuant to §3796. For more information on publishing a notice of the agreement, refer to **Section 14: Publishing/Posting Notice of Sale**, page 40. Before you can publish the notice of the sale, however, you must notify all parties of interest, as well as the IRS if there is an IRS lien on the property. To proceed, refer to **Section 11: Searching for Parties of Interest**, page 34.

Agreement Materials Not Complete

If the State Controller cannot determine that compliance with all relevant statutes has been met based on the information provided, the materials are returned to the tax collector with a letter detailing the additional elements needed. A new or modified agreement containing the requested materials may be resubmitted for authorization review (§3795).

**AUTHORIZATION
FOR THE
SALE OF TAX-DEFAULTED PROPERTY**

I, JOHN CHIANG, Controller of the State of California, in accordance with Chapter 8 of Part 6 of Division 1 of the California Revenue and Taxation Code, hereby authorize the proposed sale of tax-defaulted property described in the attached copy of agreement sale (*number or other unique identifier*), dated (*date*), as approved by the Board of Supervisors of (*county name*) County.

This Agreement between the Board of Supervisors of (*county name*) County and the (*nonprofit agency*) attached hereto has been duly approved by the State Controller. The tax collector of (*county name*) County is hereby directed to cause notice of agreement to be given, pursuant to Section 3796 of the California Revenue and Taxation Code.

Given under my hand and seal of office, at Sacramento this (*numerical date spelled out*) day of (*month*), (*current year*).

JOHN CHIANG, CALIFORNIA STATE CONTROLLER

By _____

AGF-6 (SCO 8-17)

Section 11: Searching for Parties of Interest

40 - 30 days prior to mailing Notice to Parties of Interest

Once you have received the board's approval to sell the property and have sent notices to taxing agencies, you may begin research to identify potential parties of interest, even before receiving State Controller's Office approval for the agreement sale. However, you may not mail the notices until after you receive written approval for the sale (§3796).

The preliminary task consists of researching, for each parcel, the identities of all individuals or entities considered a party of interest, as defined in §4675. This procedure is usually the most complex and can be the most time-consuming of the entire tax sale process. Therefore, the timeframe selected to complete this procedure should depend on both the number of parcels to be offered and the method used to conduct the research.

Revenue and Taxation Code §3799 requires the tax collector to make a reasonable effort to obtain the names and addresses of all parties of interest and then notify those parties of the sale by certified mail to their last known address, if available, no more than 60 days nor less than 45 days before the effective sale date.

Note: Parties of interest are defined as lienholders of record and any persons with title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser (§4675).

If you discover an Internal Revenue Service lien during research, you must give notice of the pending sale to the IRS not less than 25 days prior to the effective date of sale (*USC Internal Revenue Code* Section 7425(c)). The specific procedures are outlined on page 39. However, at this stage it is advisable to document the lien in the parcel file so that it will already be tagged when the time comes to execute the procedure.

Step 1: Begin the search for parties of interest by identifying the names and last known addresses of all of the parties of interest for each parcel. You may use one of the following methods or a combination of them.

1) **Research Consultant**

Hiring a research consultant involves contracting with an agency that locates lienholders or parties of interest of real property. Research agency reports tend to be moderately expensive, but they provide a comprehensive listing of all parties of interest on record.

2) **Title Company**

This option involves the purchase of a litigation guarantee, which provides information sufficient to determine the parties of interest. Title company reports can be very expensive and take some time to generate.

Note: Although these methods can save a substantial amount of research time, in each instance in which a parcel does not sell, the money spent for the information cannot be immediately recouped. The cost can be added to the redemption fee, but the county may not collect the money until the parcel is redeemed or purchased through a tax sale. With this in mind, the following method may be a viable alternative or complement to the methods described above.

3) In-House Research

The following conditions may favor in-house research over contracting out.

- *If the parcel has been offered at a previous tax sale*, an extensive list of parties of interest may already exist in the file. Although the list may not be up-to-date, the fact that it exists may justify doing in-house research rather than purchasing another report.
- *If the parcel has not sold at **several** previous sales*, it may not be prudent to spend additional funds on reports for the parcel; in this case, in-house research may be the best alternative.

The following is a general description of an in-house parties-of-interest search.

Initially, the analysis involves updating existing parties-of-interest lists or, when a list is absent, updating from a point in the past at which all parties of interest are definitively known. Once that date is known, a search is conducted for any updated information that may have been recorded about the parcel from the current year back to the point where the analysis was begun.

Note: Additional information and training on conducting a parties-of-interest search is available through the State Controller's Office. To request a training workshop, call or e-mail the State Controller's Office, Property Tax Collection Standards and Procedures Program, at (916) 322-5579 or propertytax@sco.ca.gov.

Step 2: Once you have identified all the parties of interest for each parcel, proceed to **Section 12: Notice to Parties of Interest**, page 36.

Section 12: Notice to Parties of Interest

60 - 45 days prior to effective date of sale

Once you have compiled a list of parties of interest for each parcel begin the last phase of the notification process. This involves mailing the notices to each party's last known address.

Send a notice to the assessee and other parties of interest, by registered mail, not more than 60 days nor less than 45 days before the effective sale date (§3799). It is not necessary to mail a copy of the notice to any party who files a written waiver of notice with the tax collector's office (§3799).

Note: Although the parties of interest search may begin before receiving approval for the agreement from the State Controller's Office, the notices cannot be mailed until *after* verbal or written confirmation of the authorization from the State Controller's Office is received (§3796).

Step 1: Prepare the notice. The State Controller's Office has designed a sample notice (see form AGF-8 on page 38). ***We recommend that you use this form.*** However, if your office has an existing notice, you may continue to use it.

The notice must contain the following information, pursuant to §3797.

- 1) A description of the property
- 2) The name of the last assessee of the property
- 3) The date and time the agreement sale will become effective
- 4) A statement disclosing that, unless the property is redeemed before the agreement becomes effective, the right of redemption will cease
- 5) A statement indicating that a purchase agreement has been made by the board of supervisors or its designee with a taxing agency or a nonprofit organization and has been approved by the State Controller
- 6) A statement that a copy of the agreement is on file in the office of the board of supervisors
- 7) Information regarding the right to claim excess proceeds if the property is sold, as defined in §4675

Note: Although the amount required to redeem the property is not a required element of the Notice to Parties of Interest pursuant to §3797, it is recommended that the tax collector include it. This will help any party of interest determine whether redeeming the property is the best course of action.

Step 2: Determine whether an IRS lien exists on any of the parcels.

- *If there is a parcel with an IRS lien attached*, proceed to **Section 13: Notice to the IRS**, page 39.
- *If there is a parcel without an IRS lien*, proceed to **Section 14: Publishing/Posting Notice of Sale**, page 40.

Mailing Considerations

Do not use an envelope with a requested return date printed on it, because if the notice is returned without having been delivered, the sale of any related parcel may be void (*Numitor Gold Mining Co. v. Katzer* 83 Cal. App. 161; see page 94 for complete text).

When an envelope is returned, do not alter or open it; keep it in the parcel's file. After the sale, it may become necessary to show proof that the notice was mailed. If the envelope is opened or altered in any way, that proof may be jeopardized.

If an envelope is returned showing the assessee as deceased, check the records of the superior court for a probate. If the estate is in probate, mail the notice to the administrator or executor of the estate. If you cannot find evidence of probate, withdraw the property from the sale and notify the public administrator. See page 61 for more information on unprobated property.

NOTICE OF SALE OF TAX-DEFAULTED PROPERTY
_____ COUNTY TAX COLLECTOR'S OFFICE

Name _____
Address _____
City, State, Zip Code _____

Date _____

IMPORTANT NOTICE TO PARTIES OF INTEREST

Our records indicate that you may have a legal interest in the property described below. An agreement for the sale of this property has been made by the board of supervisors of _____ County and (name of taxing agency or nonprofit organization) named in the agreement and has been approved by the State Controller.

THE RIGHT OF REDEMPTION WILL TERMINATE ON THE EFFECTIVE DATE OF SALE AT THE CLOSE OF BUSINESS ON THE 21st DAY AFTER THE FIRST PUBLICATION.

The amount currently required for redemption is shown below.

Redemption amount: \$ _____, if paid before _____

Last assessee name: _____

Description of property (include address if available): _____

A copy of the agreement is on file in the office of the board of supervisors.

An agreement for the sale of this property has been made by the board of supervisors with the purchasing entity and has been approved by the State Controller on: _____.

The agreement will become effective on _____ at _____ o'clock.

If the property is not sold, the right of redemption will revive, up to the close of business on the last business day prior to the next scheduled sale.

If the property was damaged, and not substantially repaired, within the last five years due to a local, state, or federally declared disaster, it cannot be offered for sale until it has been tax-defaulted for five years from the date of the disaster. If property falls into this category, contact the county tax collector's office immediately at (____) ____ - _____. Documentation may be requested by the tax collector showing that the property was damaged as a result of a declared disaster and the date the damage occurred.

RIGHTS OF PARTIES OF INTEREST AFTER SALE

If you are a party of interest, as defined in Section 4675 of the Revenue and Taxation Code, you have the right to file a claim for proceeds, pursuant to law, in excess of the liens and costs required to be paid from the proceeds.

If you have any questions concerning redemption, the proposed sale of the property, or your right to claim excess proceeds, call the person named below between the hours of _____ and _____.

Name: _____ Phone Number: _____

AGF-8 (SCO 8-05.2)

Section 13: Notice to the IRS

45 - 25 days prior to sale

It was advised earlier in this handbook that, during the parties-of-interest search, you tag files of those parcels identified as having an IRS lien. Although you can start the notification to the IRS for such parcels immediately after receiving the approval of the board of supervisors or its designee, the State Controller's Office recommends that you notify the IRS as close to the 25-day deadline as possible, to avoid missing any filed liens.

USC Internal Revenue Code (Title 26) §7425(c) requires that, whenever an IRS lien is discovered on a parcel of property that is subject to a tax sale, the IRS be given notice of the fact before the sale occurs.

The United States has the right to redeem from the purchaser up to 120 days after the date of the sale any property sold at a tax sale that has an IRS lien on it (*USC Title 26, §7425(d)*). If a property has an IRS lien on it, that information should be provided to the purchasing entity.

Step 1: Prepare the notice. It must contain the following information, pursuant to federal procedures/*Internal Revenue Regulation 301.7425-3*.

- 1) Tax collector's name and office address
- 2) Description of the property (copies of the Notice of Power to Sell and of the assessor's parcel map are sufficient)
- 3) Date, time, and place of the sale
- 4) Name and address of the taxpayer
- 5) Name of the IRS district
- 6) Date and place the notice of lien was filed
- 7) Approximate amount of the principal obligation—including interest, penalties, fees, and costs—to redeem the property and a description of any expenses, such as advertising costs, recording fee, county fees, state fees, and current taxes that will be chargeable against the sale proceeds

Note: A copy of this file attached to the notice to the IRS is sufficient to fulfill the information requirements of items 4 through 6.

Step 2: Send the notice by registered mail, certified mail, or personal service not less than 25 days prior to the date on which the agreement becomes effective (*USC Internal Revenue Code §7425(c)*).

Step 3: Once the mailing is completed, proceed to **Section 14: Publishing/Posting Notice of Sale**, page 40.

Section 14: Publishing/Posting Notice of Sale

24 - 39 days after mailing Notice to Parties of Interest

A notice must be published once a week for three successive weeks in a newspaper published in the county where the property to be sold is located. If no newspaper is published in the county seat or in the judicial district, a notice may be posted in three public places (§3798).

If, in the judgment of the board of supervisors or its designee, the property to be sold will bring less than the cost of publishing in a newspaper, the notice may be posted in three public places rather than published in a newspaper (§3798.1).

Step 1: Determine the publishing or posting dates. Consider the following factors in determining the dates.

This agreement sale may become effective no sooner than 5:01 p.m. on the 21st day after the first publishing or posting date (§3802). However, the effective sale date must be no more than 60 days and no less than 45 days after the Notice to Parties of Interest is mailed. Therefore, the first Notice of Sale must be published or posted 24-39 days after the Notice to Parties of Interest is mailed.

Step 2: Prepare the notice of sale. The State Controller's Office has designed sample notices (see forms AGF-9 and AGF-10 on pages 42 and 43, respectively). ***We recommend that you use these notices.*** However, if your office has existing notices, you may continue to use them.

The notice must contain the following information, pursuant to §3797:

- 1) Type of sale
- 2) Name of the current assessee of the property
- 3) The Assessor's Parcel Number

Note: If the parcel number has changed, show both the current and the former parcel number.

- 4) A statement that an agreement for the sale of the property or for an option to purchase, or both, has been made between the board of supervisors or its designee and the taxing agency or nonprofit organization named in the agreement, and that the agreement has been approved by the State Controller
- 5) A statement that a copy of the agreement is on file in the office of the board of supervisors
- 6) A statement disclosing that, unless the property is redeemed before the agreement becomes effective, the right of redemption will cease

- 7) The date and time the agreement becomes effective
- 8) A statement that, if the property is sold, parties of interest, as defined in *Revenue and Taxation Code* §4675, have the right to file a claim with the county for any proceeds from the sale that are in excess of the liens, costs, and other charges required to be paid from the proceeds
- 9) A statement that, if excess proceeds result from the sale, notice will be given to parties of interest pursuant to law

- Note:
- Notice AGF-9 is recommended *if the published notice is for an agreement between the board and a city.*
 - Notice AGF-10 is recommended *if the published notice is for an agreement between the board and a public agency other than a city.*

Step 3: File an affidavit in the tax collector's office showing that notice has been given as prescribed (§3801).

If the notice was published, the affidavit is provided by the the newspaper. This affidavit is not recorded.

If the notice was posted, an affidavit should be prepared by the tax collector. The State Controller's Office has designed a sample affidavit form (see form AGF-11 on page 44). ***We recommend that you use this form.*** However, if your office has an existing form, you may continue to use it.

**NOTICE OF AGREEMENT TO PURCHASE
TAX-DEFAULTED PROPERTY FOR DELINQUENT TAXES**
(Purchase by a City)

NOTICE IS HEREBY GIVEN, in accordance with the provisions of Division 1, Part 6, Chapter 8, of the California Revenue and Taxation Code (and the written authorization of the State Controller), that an agreement, a copy of which is on file in the office of the board of supervisors of _____ County (and in the office of the city clerk of the City of _____), has been made between the county board of supervisors and the City of _____ and approved by the State Controller, whereby the county will sell the real property described in the agreement and in this notice. All property named in the agreement is subject to the tax collector's power to sell tax-defaulted property.

The effective date and time of the agreement shall be _____.

If the property is not redeemed according to law before the effective date and time of the agreement, the right of redemption will cease and the undersigned tax collector, pursuant to said agreement, will sell said property to _____.

If the property is sold, parties of interest, as defined in Section 4675 of the California Revenue and Taxation Code, have a right to file a claim with the county for any proceeds from the sale that are in excess of the liens and costs required to be paid from the proceeds. If excess proceeds result from the sale, notice will be given to parties of interest pursuant to law.

For information as to the amount necessary to redeem or other related issues pertaining to the property described in this notice, contact _____, Tax Collector of _____ County in the State of California.

I certify (or declare), under penalty of perjury, that the foregoing is true and correct.

(Signed) _____
County Tax Collector

Executed at _____, _____ County of _____, _____

PARCEL NUMBERING SYSTEM EXPLANATION

The Assessor's Parcel Number (APN), when used to describe property in this list, refers to the assessor's map book, the map page, the block on the map (if applicable), and the individual parcel on the map page or in the block. The assessor's maps and an explanation of the parcel numbering system are available in the assessor's office.

The properties that are the subject of this notice are situated in _____ County, California, and are described as follows:

ITEM NO.	ASSESSOR'S PARCEL NUMBER	LAST ASSESSEE NAME
1	123-456-789-0	ASSESSEE NAME

AGF-9 (SCO Figure 9.7a)

NOTICE OF AGREEMENT TO PURCHASE TAX-DEFAULTED PROPERTY FOR DELINQUENT TAXES

(Purchase by an Entity Other Than a City)

NOTICE IS HEREBY GIVEN, in accordance with the provisions of Division 1, Part 6, Chapter 8, of the California Revenue and Taxation Code (and the written authorization of the State Controller), that an agreement, a copy of which is on file in the office of the board of supervisors of _____ County, has been made between said board of supervisors and _____ and approved by the State Controller, whereby said county will sell to said _____ under the terms set forth in said agreement all of the real property hereinafter described that is subject to the power of sale by the tax collector.

The effective date and time of the agreement shall be _____.

If the property is not redeemed according to law before the effective date and time of the agreement, the right of redemption will cease and the undersigned tax collector, pursuant to said agreement, will sell said property to _____.

If the property is sold, parties of interest, as defined in Section 4675 of the California Revenue and Taxation Code, have a right to file a claim with the county for any proceeds from the sale that are in excess of the liens and costs required to be paid from the proceeds. If excess proceeds result from the sale, notice will be given to parties of interest pursuant to law.

For information as to the amount necessary to redeem or other related issues pertaining to the property described in this notice, contact _____, Tax Collector of _____ County in the State of California.

I certify (or declare), under penalty of perjury, that the foregoing is true and correct.

(Signed) _____

County Tax Collector

Executed at _____, _____ County of _____, _____

PARCEL NUMBERING SYSTEM EXPLANATION

The Assessor's Parcel Number (APN), when used to describe property in this list, refers to the assessor's map book, the map page, the block on the map (if applicable), and the individual parcel on the map page or in the block. The assessor's maps and an explanation of the parcel numbering system are available in the assessor's office.

The properties that are the subject of this notice are situated in _____ County, California, and are described as follows:

ITEM NO.	ASSESSOR'S PARCEL NUMBER	LAST ASSESSEE NAME
1	123-456-789-0	ASSESSEE NAME

AGF-10 (SCO Figure 9.7b)

AFFIDAVIT OF POSTING NOTICE OF AGREEMENT SALE

_____ COUNTY TAX COLLECTOR

State of California

_____ County

I, _____ (name) _____, certify that I am an (employee/officer) of _____, County, State of California, and that on _____ (date) _____, I posted true and correct copies of the attached county tax collector's Notice of Sale of Tax-Defaulted Property for Delinquent Taxes, said notice pertaining to an agreement sale scheduled to be held in the county tax collector's office, beginning at the hour of _____ .m. on _____ (date) _____. I further certify that said copies of the notice were posted not less than 21 days prior to the date scheduled for the sale, at the following places in the county, to wit:

One at the _____ (place) _____, at _____ .m.

One at the _____ (place) _____, at _____ .m.

One at the _____ (place) _____, at _____ .m.

DATED _____
Affiant

Subscribed and sworn to before me, _____, the _____ day of _____, _____.

(Notary Public, County Clerk, etc.)

AGF-11 (SCO 9-02)

Section 15: Redemption and Other Issues Prior to the Sale

The right to redeem the property terminates at the date and time the agreement becomes effective (§3803). Last-minute payments are common. If the parcel or any portion of the parcel is redeemed before the agreement becomes effective, the agreement is null as to the property redeemed (§3803).

If you receive a payment for redemption by mail ***and the postmark date on the envelope is the same as or prior to the date the agreement becomes effective***, you must accept the payment as a valid redemption and cancel the agreement sale (§2512). Last-minute redemption payments for parcels under a Chapter 7 sale are handled differently; the payment must be physically received in the tax collector's office before the date of the sale.

Note: If the redemption payment is made 90 days or less prior to the sale date, add \$150 to the total redemption fee (§4112(a)(3)).

Note: If you have made personal contact and/or posted the sale, add to the total redemption fee an amount not to exceed \$100 (§4112(a)(4)).

Other factors that may require withdrawing property from the agreement sale are as follows.

- 1) The property is determined not to be subject to tax default, e.g. mobile homes without permanent foundation, possessory interests, leasehold estates, and property subject to the conditions listed on pages 59-61
- 2) The assessee declares bankruptcy, even at the last minute
- 3) The power to sell is canceled

Parcels Withdrawn for Any Other Reason

The tax collector may withdraw a parcel from a tax sale, with consent of county counsel, if it is deemed to be in the best interest of the county to do so (§3698.8).

Injunction Brought against Tax Sale

An injunction, restraining order, or other legal action cannot be brought against the county to either prevent or enjoin the collection of property taxes sought to be collected (§4807). However, an injunction can be used to stop the county from offering a parcel at a tax sale.

If an injunction for a particular parcel is brought against the tax sale, contact the county counsel. For specific procedures, refer to Appendix IV, Process to Address an Injunction, page 70.

Note: The above statements ***do not apply*** to the automatic stay provision of the bankruptcy court. As previously stated, withdraw the parcel from the sale if it becomes known that the assessee is in bankruptcy.

Section 16: Effective Date of the Sale

The agreement sale becomes effective, by operation of law, at 5:01 p.m. on the 21st day after the date of the first published or posted Notice of Agreement (§3802). The right to redeem terminates on the date and at the time the agreement becomes effective. However, if all or any portion of the property is redeemed before the agreement becomes effective, the agreement is null as to the property redeemed (§3803).

The recommended period within which the purchaser should complete the payment, plus costs, is 14 days after the effective date. Regardless of the date you choose, if the purchaser fails to pay the purchase price within the agreed-upon time, do not execute the deed to the purchaser. The right of redemption is automatically restored to the last assessee or his or her successor in interest.

The board of supervisors, or its designee, may permit a nonprofit organization to purchase property or a property interest by way of installment payments (§3793.1).

As previously stated, if the agreement sale involves specific terms or conditions regarding the rehabilitation of the property, the board of supervisors or its designee may take measures to ensure compliance. The board may direct the tax collector to execute these measures.

Section 17: Recording of Deed and Deposit of Proceeds

Upon conclusion of the sale, you must complete a number of follow-up procedures, including payment, title transfer, filing of various reports, and distribution of proceeds to the proper entities.

Deed Transaction and Recording

Upon completion of the sale, you must issue a deed to the purchaser. The State Controller's Office has designed a sample deed form (see form AGF-12 on page 49). ***We recommend you use this form.*** However, if your office has an existing form, you may continue to use it.

The recommended transaction procedures are as follows.

Step 1: Prepare and execute a deed in the purchaser's name ***only after the purchaser has made full payment*** for each parcel and you have verified the funds. The deed must specify any conditions necessary to comply with the agreement. This includes, but is not limited to, requiring the agency or nonprofit organization to dedicate the property for a public use as specified in the agreement (§3804).

Step 2: Record the deed with the county recorder (§3804(b)).

Step 3: Record the change of ownership with the county assessor (§480.3).

Note: A Preliminary Change of Ownership Report (PCOR) is not required when recording a deed transfer from a sale for defaulted taxes. The information given to the assessor pursuant to §3716 or §3811 is considered sufficient (§480.3(e)).

Step 4: Prepare a copy of the recorded deed or a conformed copy. This document must be included in the report to be submitted to the State Controller's Office (§3804(b)).

Step 5: Note the fact and date of sale on the margin of each delinquent roll (or abstract) and current roll on which the property sold appears (§3813).

Note: Do not record a Rescission of Notice of Power to Sell or a Cancellation of Notice of Power to Sell for property redeemed as a result of an agreement sale. The recorded Tax Deed to Purchaser (see form AGF-12 on page 49) is considered public notice that taxes have been satisfied and the property has been conveyed to a bona fide purchaser.

Additional Deed Provisions

In addition to the usual provisions required of a deed conveying real property, the deed must contain the following information, as specified in §3805.

- 1) A statement that the property was subject to a power of sale pursuant to §3691 for nonpayment of taxes that had been legally levied and placed as a lien on the property
- 2) The name of the purchaser
- 3) Any condition deemed necessary to effect compliance with the agreement, including, but not limited to, a condition that the real property be used by the purchasing entity for the public use specified in the agreement.

Note: If you cannot fit the entire description of the conditions of the tax deed, include them in an “Exhibit” document. Reference the Exhibit on the tax deed in the appropriate space.

Deposit of Proceeds

You should deposit the proceeds received from an agreement sale in the delinquent tax sale fund just as you would money allocated for tax payments (§3808). The proceeds should be allocated as follows:

- Step 1:** A portion equal to the advertising costs should be deposited in the county general fund (§3808, §4673, §3719).
- Step 2:** The balance of the proceeds, less the recorder's fee and the transfer tax, is deposited in the delinquent tax sale trust fund (§3808, §4673, §3719).
- Step 3:** The recorder's fee and the transfer tax must be deposited in an appropriate fund (such as the tax collector's trust fund) and a warrant, or separate warrants, must be drawn in favor of the county recorder for payment (§3808, §4673, §3719).

Statute of Limitations

Any action to overturn a sale based on alleged invalidity or irregularity of any proceedings must be commenced ***within one year*** from the date of execution of the tax deed to the purchaser (§3809).

Doc. Trans. Tax - computed on full value of property conveyed \$ _____
Signature of Declarant

TAX DEED TO PURCHASER OF TAX-DEFAULTED PROPERTY

On which the legally levied taxes were a lien for Fiscal Year _____
and for nonpayment were duly declared to be in default. _____
Default Number

This deed, between the Tax Collector of _____ County ("SELLER"),
 and _____ ("PURCHASER"),

conveys to the PURCHASER, free of all encumbrances of any kind existing before the sale, except those referred to in §3712 of the Revenue and Taxation Code, the real property described herein which the SELLER sold to the PURCHASER _____ on _____, pursuant to a statutory power of sale in accordance with the provisions of Division 1, Part 6, Chapter _____, Revenue and Taxation Code, for the sum of \$ _____.

_____ taxing agency objected to the sale.

In accordance with law, the SELLER hereby grants to the PURCHASER that real property situated in said county, State of California, last assessed to _____, described as follows: _____
Legal Description of Parcel

and subject to the following conditions or restrictions pursuant to §3805 of the Revenue and Taxation Code: _____
Conditions or Restrictions

State of California Executed on _____
 _____ County By _____
 Tax Collector

On _____, before me, _____, personally appeared _____, personally known to me - OR - proved to me on the basis of satisfactory evidence to be both the Tax Collector of said county and the person whose name is subscribed to the within instrument, and acknowledged to me that he/she executed the same in his/her authorized capacity as Tax Collector, and that, by his/her signature on the instrument, the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

 County Clerk and Ex Officio Clerk

 Deputy or Notary Public

AGF-12 (SCO 8-19)

Section 18: Post-Sale Reports – Preliminary Procedures

After the sale has been completed, you must compile reports and supporting documentation to record and track various aspects of post-sale property condition and the distribution of proceeds. One or more of these reports must be provided to the State Controller, the county assessor, the county treasurer, and the county auditor.

Fee Calculations

The State Controller's Office recommends that, before you begin preparing the reports, you calculate the following for each parcel:

- 1) Purchase price
- 2) Recording fee
- 3) Transfer tax
- 4) \$1.50 State fee (§4672)
- 5) \$150 county fee (§4672.1)
- 6) A minimum of \$35 to cover the cost of researching and notifying parties of interest. A cost greater than \$35 may be calculated, pursuant to *Government Code* §59385 (§4672.2).
- 7) Cost of personal contact and/or posting of property, if applicable (§3704.7)
- 8) Cost of advertising the sale (§3719 and §4673)
- 8) The sum of the proceeds remaining after subtracting the amounts above from the purchase price

Other Elements of the Sale

Gather the following information, which should be available from previous research or tasks.

- 1) Name of each purchaser
- 2) Date of the sale
- 3) Legal description of each parcel

Review Completion

After completing the calculations and gathering the information listed above, proceed to **Section 19: Post-Sale Required Reports**, page 51.

Section 19: Post-Sale Required Reports

0 - 10 days after sale

After completing all of the calculations and obtaining the additional information, you are ready to produce the various post-sale reports.

Report to the Assessor, the Auditor, and the State Controller

On execution of the deed to the taxing agency or nonprofit organization, and on receipt of a notice of resale of the property by the taxing agency, the tax collector must file a report of sale within 10 days to the State Controller, the assessor, and the auditor (§3811). When reporting to the State Controller, a copy of the deed or a conformed copy of the deed is sufficient.

The State Controller's Office has designed a sample sale report form (see form AGF-13 on page 52). ***We recommend that you use this form.*** However, if your office has an existing form, you may continue to use it.

The report of sale must contain the following information.

- 1) Name of the purchaser (§3811(a))
- 2) Date of the deed to the taxing agency or nonprofit organization or, in the event of resale, the date of the deed by the taxing agency (§3811(b))
- 3) The purchase price or, in the event of resale, the net amount after deducting allowable expenses (§3811(c))
- 4) Legal description of each of the properties conveyed (§3811(d))

Notations on Tax Roll

The tax collector must note the fact and date of a Chapter 8 agreement sale on the margin of each delinquent and current roll on which the property appears, opposite the property sold. Any charges against the tax collector having custody of the delinquent and current rolls must be reduced accordingly (§3813).

REPORT OF SALE OF TAX-DEFAULTED PROPERTY

_____, California
_____, _____
To the Treasurer, Auditor, and Assessor of _____
_____ County

Pursuant to an authorization of the State Controller, dated _____, _____, to sell tax-defaulted property, and in accordance with the provisions of the Revenue and Taxation Code, you are hereby notified of the disposition of the following-described property:

Tax-defaulted on _____, _____, for delinquent taxes of \$ _____ Default No. _____

Notice of Power to Sell was recorded _____, _____ in volume _____ at page _____.

Current secured roll volume _____, page _____, assessment _____

Last assessee and last known address:

Date of sale _____, _____ Date of deed to purchaser _____, _____

Total sale price \$ _____

Less:	Cost of advertising	\$ _____
	Cost of recording fee	\$ _____
	State fee	\$ _____
Balance to Delinquent Tax Sale Trust Fund		\$ _____
Transfer tax collected		\$ _____

Deed issued to: Name: _____

Address: _____

Where no sale was made on the above-described property, I report the following:

_____ Redeemed on _____, _____

_____ Objection of taxing agency Agency Name: _____

_____ No bids received

_____ Other: _____

Reason: _____

County Tax Collector
State of California

AGF-13 (SCO 8-07)

Section 20: Excess Proceeds

Notification: 0 - 90 days following sale

Excess proceeds are those proceeds remaining after all required distributions have been made (§4674 and §4675). When excess proceeds from the sale exceed \$150, give notice of the right to claim the excess proceeds to all parties of interest (§4676). The notice and claim form must be mailed within 90 days after the date of sale (§4676(a)).

Notification

- Step 1:** Isolate those parcels that have excess proceeds, pursuant to §4674 and §4675.
- Step 2:** Develop a parties-of-interest list for each of these parcels. Make a reasonable effort to obtain the names and last known mailing addresses of each party of interest (§4676(a)).
- Step 3:** Prepare a written notice of the right to claim excess proceeds and mail it, no later than 90 days after the sale, to each party of interest with a last known address (§4676(a)). The State Controller's Office has provided a sample notice (see form AGF-14 on page 55) and a sample claim form (see form AGF-15 on pages 56-57).
- Step 4:** If you do not know the last-known address, publish a Notice of Excess Proceeds in a newspaper of general circulation in the county. The notice must be published once a week for three successive weeks with publication starting no later than 90 days after the sale (§4676(a)). Sample notice AGF-14 may be used.
- Step 5:** Once the notification process is completed, calculate the notification costs and deduct them from the balance of the excess proceeds. The amount deducted must be deposited in the county general fund (§4676(b)).
- Step 6:** Retain excess proceeds in the delinquent tax sale trust fund for a period of one year *following* the date of recordation of the tax deed to the purchaser. After one year, disburse proceeds, in proper proportion, to all eligible parties of interest who submitted a claim (§4676).

Claim Request Processing

- Step 1:** Review the claim form to determine whether the claimant has provided the necessary proof to establish his or her interest in the property (§4675).
- Step 2:** Determine the ownership interest and the ownership portion, because proceeds are distributed in direct proportion to the ownership interest that was held in the property. For example, the holder of a one-quarter divided interest could claim no more than one-quarter of the total excess proceeds. (*First Corporation, Inc. v. Santa Clara County*, 146 Cal App. 3d 841; see page 93 for complete text.)
- Step 3:** If the information submitted on the claim application meets the requirements outlined in §4674 and §4675, make the proper distribution according to the order of priority.
- Step 4:** If the distribution involves more than one person and/or entity and the total monetary claims are more than the available proceeds, determine the order of priority for parties of interest as follows:
- 1) Lienholders of record prior to recordation of the tax deed to the purchaser (§4675(a))
 - 2) Any person with title of record to all or any portion of the property prior to recordation of the tax deed to the purchaser (§4675(b))

Unclaimed Excess Proceeds

If unclaimed excess proceeds remain at the end of one year after the recordation date of the tax deed to purchaser, the tax collector may deduct the cost of maintaining the redemption and tax-defaulted property files that was not recovered under any other provision of law (§4674). You one of the following two methods of distributing the remaining unclaimed excess proceeds.

- *If the county operates under the alternate method of distribution*, deposit the unclaimed excess proceeds into the general fund.
- *For all other counties*, distribute unclaimed excess proceeds to each tax fund in an amount bearing the same proportion to the balance remaining as the tax rate for each fund bears to the total tax rate applicable to the property for the fiscal year preceding that in which the property was sold.

NOTICE OF EXCESS PROCEEDS TO PARTIES OF INTEREST

(Party of Interest)
(Street Address)
(City, State, and Zip)

Re: EXCESS PROCEEDS FROM SALE OF TAX-DEFAULTED PROPERTY

Parcel No.:

Situs:

Assessee:

Date Sold:

Date Deed to Purchaser Recorded:

Final Date to Submit Claim:

The property referenced above was declared subject to the tax collector's power of sale for non-payment of taxes and later sold. Parties of interest as defined in Section 4675 of the California Revenue and Taxation Code (e.g., the last assessee and any lienholders of record) have a right to file a claim for any excess proceeds that remain after tax and assessment liens and costs of the sale have been satisfied. Our records show that you may be a party of interest, and we are enclosing for your convenience a claim form. Please note that your claim must be received within one year of the date the deed to the purchaser was recorded (shown above). By law, we cannot accept claims after one year from this recording date.

Parties of interest and their order of priority are:

- (a) First, lienholders of record prior to the recordation of the tax deed to the purchaser, in the order of their priority.
- (b) Second, any person with title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser.

If you consider yourself to be a party of interest in the sale of the above-referenced property, please fill out the enclosed claim form and return it, along with documentation supporting your claim, to:

_____.

If you need assistance or have any questions, please contact our office by mail, telephone, or in person. You may telephone us at _____ any time between 8 a.m. and 5 p.m.

Sincerely,

TAX COLLECTOR

AGF-14 (SCO 8-20)

CLAIM FOR EXCESS PROCEEDS

(See Reverse for Further Instructions)

TO: _____, County Treasurer-Tax Collector

RE: Claim for Excess Proceeds

I hereby certify that I am a party of interest in the following parcel:

Parcel Number:

Assessee:

Situs:

Date Sold:

Date Deed to Purchaser Recorded:

I claim excess proceeds under Revenue and Taxation Code Section 4675. Enclosed is documentation supporting my claim.

I affirm, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge.

Signature of Claimant

Name of Claimant (please print or type)

Mailing Address:

Daytime Phone: _____

MAIL COMPLETED CLAIM FORMS TO:

AGF-15 (SCO 8-21)
(Front)

INSTRUCTIONS FOR FILING CLAIM

(See Claim Form on Reverse Side)

Pursuant to California Revenue and Taxation Code §4675, parties of interest and their order of priority are:

- (a) First, lienholders of record prior to the recordation of the tax deed to the purchaser, in the order of their priority.
- (b) Second, any person with title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser.

A party of interest in the property at the time of the sale may assign his or her right to claim the excess proceeds only by a dated, written instrument that explicitly states that the right to claim the excess proceeds is being assigned, and only after each party to the proposed assignment has disclosed to each other party to the proposed assignment all facts of which he or she is aware relating to the value of the right that is being assigned.

If you consider yourself to be a party of interest in the sale of tax-defaulted property as defined above, please fill out the reverse of this form, stating how you have determined your status as a party of interest. If you need help in filling out the form, please contact our office by telephone at:

_____.

You must attach copies of documents to support your claim, as follows:

- (a) In case (a), attach a copy of your trust deed or other evidence of lien or security interest, along with a statement under penalty of perjury setting forth the original amount of the lien or interest, the total amount of payments received reducing the original amount of the lien or interest, and the amount still due and payable as of the date of the sale of the tax-defaulted property by the tax collector.
- (b) In case (b), attach copies of any other documents supporting your claim (e.g., deed, death certificate, will, court order, etc.).
- (c) Any person or entity who in any way acts on behalf of, or in place of, any party of interest with respect to filing a claim for any excess proceeds shall submit proof with the claim that the amount of excess proceeds has been disclosed to the party of interest and that the party of interest has been advised of his or her right to file a claim for the excess proceeds on his or her own behalf (§4675).

PLEASE NOTE: Claims will be processed after one year has passed from the date of the recording of the deed to the purchaser. In order to receive consideration by the county board of supervisors, claims must be received BEFORE THE EXPIRATION OF ONE YEAR following the date of the recording of the deed to the purchaser (see the "Date Deed to Purchaser Recorded" on the attached notice.) Following the board's review, the claim will either be approved or denied. The clerk of the board of supervisors will notify you of the action taken by the board. Should the claim be approved, the auditor-controller will, after 90 days, issue a county warrant in payment.

AGF-15 (SCO 8-21)
(Back)

APPENDICES

I. Disqualifying Parcel Conditions

The following conditions will cause a given property to be exempted or excluded from agreement sale. However, in some cases, these conditions can be remedied. Where applicable, corrective measures are included in the descriptions.

1) Property with an Indefinite or Improper Description

Reference made to acreage without specifying boundaries is an improper description. For example, "the south 10 acres of the NW 1/4" creates probable lines but may lead to conflicts over boundaries. Examples of inadequate descriptions are: a description that is dependent upon another description, a lot shown on an official map without reference to that map, and metes-and-bounds descriptions that do not establish a basic reference such as township, range, meridian, or name of a valid Spanish or Mexican land grant. See Section 8120 of the *County Tax Collectors' Reference Manual* for the full explanation and definition of "indefinite description."

2) Property Belonging to Public Agencies

Properties belonging to public agencies normally should not be sold, pursuant to Article XIII, Section 3, of the Constitution and §202 of the *Revenue and Taxation Code*. Contact the State Controller's Office for any situation regarding a public agency.

3) Unpatented Property

Unpatented property is land that has never been granted or conveyed to an individual by either the federal government or the State. It is not subject to taxation and, therefore, cannot be sold at a tax-defaulted land tax sale. When title is in question, the Property Tax Collection Standards and Procedures Program, State Controller's Office will, upon request, check the patent records of the appropriate federal office and the State Lands Commission for information.

4) Property Assessed to an Individual Who Has Filed for Bankruptcy

The filing of a bankruptcy petition creates an automatic stay in the enforcement of any lien against the estate of the debtor, and the stay continues until the case is closed or the real property no longer belongs to the estate. If the tax collector learns that bankruptcy proceedings have begun for the assessed owner, the tax collector must ensure that ***no attempt is made to sell the secured property covered by the bankruptcy without the bankruptcy court's permission.*** This permission is in the form of a relief from stay. The tax collector should contact the county counsel to file such a motion with the court.

The automatic stay does not prevent the tax collector from asking the debtor or the debtor's attorney about the debtor's intentions with respect to the secured property, nor does it prevent the tax collector from creating or perfecting a statutory lien or function imposed by a political subdivision of the State, if such tax or function comes due after the filing of the bankruptcy petition, including post-petition taxes, power to sell, and other notices as required by law.

5) Property Assessed to Individuals Not Responsible for Their Affairs

If a parcel that is subject to sale is owned by a person who is committed to a state hospital, the property cannot be offered for sale until you determine the status of the patient. It may be necessary to call one or both of the following agencies to locate the patient information.

Department of Developmental Services
Client Financial Services
(916) 654-2422

Department of Mental Health, Office of Human Rights
(916) 654-2327

If the individual in question is responsible for his or her affairs, you may proceed with advertising the sale. If a conservator or guardian has been appointed on behalf of the individual, notify the appointed party before including the parcel in the sale.

6) Indian Allotment Land

Indian allotment land on which a trust patent has been issued or reissued, or property located on a reservation, may not be sold at a tax sale. A trust patent is the instrument by which the United States government conveys title of public lands to Indian tribes.

7) California Veteran's Land (Cal Vet Property)

If taxes become delinquent on a Cal Vet property, contact the Contract Services Unit, California Department of Veterans Affairs, 1227 O Street, Sacramento, CA 94295-0001, (916) 503-8362 or 503-8000, and inform the office of the delinquency. The department may pay the taxes to prevent the property from becoming tax-defaulted or subject to the tax collector's power of sale.

8) Property Exempted under the Soldier's and Sailor's Civil Relief Act

The *United States Code*, Title 50, App., Sections 501 and 585, affords protection to a person in the military service from the loss of real property through enforcement of the collection of taxes when such property is owned and occupied by dependents or employees as a dwelling or for professional, business, or agricultural purposes. If the real property is subject to the tax collector's power of sale, the enforcement action may be commenced only by court permission granted upon application of the tax collector.

The serviceperson's exemption extends for a period not exceeding six months following termination of service. When computing the tax-default time period, do not include in the calculations the period of military service, pursuant to Section 205 of this Code.

9) Unprobated Property

If the notice mailed to the last known assessee is returned by the post office with the word "deceased" stamped on the envelope, check with the clerk of the superior court to determine whether the county has started a probate proceeding. If it has not, notify the county's public administrator that probate proceedings must be initiated immediately. Once probate proceedings have begun and letters of administration have been issued, the property may be sold. Send notice of the impending sale to the court-appointed administrator.

If you cannot find a person or representative having authority of higher rank than the public administrator to assume responsibility for the estate, and the value of the estate is not sufficient to cover the taxes, the secured liens, and the cost of probate, the public administrator of the county where the decedent resided at the time of death, as authorized by Section 7603 of *Probate Code*, shall notify the tax collector in writing that the public administrator has investigated the estate and has determined that the anticipated equity in the property after settlement does not warrant opening an estate administration. The tax collector may then proceed with the tax sale (§4986.6). See form AGF-17 on pages 62-63.

10) Contaminated Property

The State Controller's Office recommends that any property on the Superfund list not be sold at a tax sale.

Property not on the Superfund list but known or suspected to be contaminated may be sold. In such cases, consult county counsel on the specific circumstances. If the sale goes forward, disclose all that is known; do not attempt to estimate the extent of the contamination or the cost of cleanup.

TAX COLLECTOR LETTERHEAD
REQUEST FOR PROBATE INVESTIGATION

_____, Probate Administrator
County of _____

Please be advised that the real property situated in the County of _____, State of California, described as Assessor's Parcel Number _____ and commonly referred to as _____, is subject to the tax collector's power to sale for the nonpayment of real property taxes for the fiscal year(s) _____. The amount necessary to redeem the property before _____ is \$_____. Said real property is assessed to _____ whose last known address was _____.

Information received by this office indicates that said last known assessee(s) is/are deceased and died a resident of _____. A copy of the decedent's death certificate is attached for your convenience.

Pursuant to Section 4986.6 of the Revenue and Taxation Code, a request is hereby made for your office to take possession and control of the property referred to above under Section 7600 of the Probate Code for the purposes of conducting the probate investigation required pursuant to Sections 7602 and 7603 of the Probate Code.

Following the investigation required by your office, please return the attached "Probate Investigation Report of Findings" to this office at the following address:

_____ Tax Collector
County of _____

Please call this office at _____ with any questions you may have regarding this matter.

Sincerely

CC: _____ Probate Administrator
County of _____

Attachment

AGF-17 (SCO 8-26)
(Front)

PROBATE INVESTIGATION REPORT OF FINDINGS

Date: _____

Tax Collector, County of _____

In re: THE ESTATE OF _____

_____ County Assessor's Parcel Number _____

Situs Address: _____

Pursuant to Section 4986.6 of the Revenue and Taxation Code, the probate investigation of the estate of the decedent referred to above has been conducted as authorized under Sections 7602 and 7603 of the Probate Code. As a result of that investigation, _____, Probate Administrator for the County of _____, State of California, has determined the following:

- ☐ A person with higher priority has been found to assume responsibility for the estate and a proceeding will be commenced to administer the decedent's estate by:

Name: _____

Address: _____
_____Phone: _____

Any notices of tax sale should be directed to the above named individual at the address shown and to the following heirs and devisees of the decedent disclosed by the investigation:

Name: _____

Address: _____
_____Phone: _____

(Attach additional pages if necessary.)

- ☐ No person with higher priority has been found and the Public Administrator has commenced probate proceedings with respect to the decedent's property. Pursuant to Section 4986.6(b)(1), no tax sale of the property may be made until the probate process is completed.

Any questions regarding this report should be directed to the following:

_____, Public Administrator

County of _____

AGF-17 (SCO 8-26)
(Back)

II. Establishing the Negotiable Selling Price

Supplemental procedures

When the board of supervisors or its designee has not previously established the purchase price of a parcel and an agency has submitted an application to purchase the parcel by agreement sale, the purchase amount can be negotiated between the purchasing agency, the board, and the tax collector. The State Controller's Office recommends that the following criteria be used to determine the purchase price.

Step 1: Determine which category the parcel falls into:

Category A – All parcels that have a welfare exemption

Category B – All parcels that have no welfare exemption but have previously been offered at one or more tax sales

Category C – All parcels that have no welfare exemption and have not been previously offered at a tax sale

- Step 2:**
- *If the parcel meets the Category A criterion*, refer to page 66 for the requirements necessary to establish the minimum selling price.
 - *If the parcel meets the Category B criterion*, make the calculations using one of two options:
 - 1) Offer the parcel at less than the required minimum selling price. The tax collector may set the minimum price that he or she deems appropriate (§3698.5(c)). This option is usually exercised when it is apparent that the market value of a parcel is substantially less than the sum of the standard minimum bid amount outlined in §3698.5(a); or
 - 2) Offer the parcel at the standard minimum price calculation, including all of the Category C factors listed below (§3698.5(a)).
 - *If the parcel meets the Category C criterion above*, the purchase amount should be at least the sum of the following criteria, pursuant to §3793.1. The general items described in §3793.1 refer to specific items outlined in §3698.5(a)(1), which include:
 - 1) All unpaid defaulted taxes and assessments
 - 2) The delinquent penalties
 - 3) The redemption penalties
 - 4) The \$15 redemption fee (§4102)(d))
 - 5) All costs of the sale, as described in §3704.7(c), §4112(a) and (b), §4672, §4672.1, §4672.2, §4673, and §4673.1(b). These include:

- a) A minimum of \$35 for the cost of obtaining names and addresses of parties of interest and mailing notices to these entities for each parcel, pursuant to §4112(a)(1). If the cost exceeds \$35, the charge can be increased to reflect the actual cost. For similar items, the charge may be established in terms of an average total cost rather than calculating the total cost of each item (*Government Code* §54985(a)).

Also, indirect costs as specified in the federal Office of Management and Budget Circular A-87, January 1, 1984, may be included (*Government Code* §54985(a)).

All of the above-referenced costs and any increases for charge amounts should be reflected in the office fee schedule, which, the county board of supervisors or its designee adjusts annually, if necessary.

- b) \$6, pursuant to §4112(a)(2). This cost references a required fee for recording any notice by a county pursuant to *Government Code* §27361.3. If the cost has increased, the current rate may be applied.
- c) \$1.50 state fee (§4672)
- d) \$150 county fee (§4112(a)(3))
- e) Personal contact or posting of property costs, if applicable (§4112(a)(4))
- f) Publication cost. You must estimate this cost because the publication notice takes place several procedures after the minimum selling price is established (§4673).
- g) Up to \$100 for each parcel that is a primary residence for the last known assessee (§3704.7(c)). Indicators of this condition include:
 - 1) A valid homeowner's exemption
 - 2) Any evidence showing that the mailing address on the tax bill is the same as the situs (§3704.7). This information should be available from previous research; see **Section 5: Public Agency Purchase Eligibility Review**, page 7, or **Section 7: Nonprofit Organization Purchase Eligibility Review**, page 19.

III. Establishing the Minimum Selling Price – Welfare Exemptions

Calculate the minimum selling price for each parcel pursuant to §3698.5. For those with welfare exemptions, determine a minimum selling amount in each of two categories. ***After you have determined the total for each category, use the higher total as the minimum selling price*** (§3698.5(a)). Descriptions of the categories follow.

Category A – Fifty Percent of the Fair Market Value of the Property

Fair market value means “the amount defined in §110 pursuant to an appraisal of the property by the county assessor within one year immediately preceding the date of publication. The value of the property as determined by the assessor pursuant to an appraisal shall be conclusively presumed to be the fair market value of the property for the purpose of determining the minimum price at which the property may be offered for sale” (§3698.7(a)(1)).

Category B – Total Amount Necessary to Redeem the Property, Plus Costs

Category B includes the following sums (these are the same totals of all factors outlined in §3698.5):

- 1) The accumulated amount of all unpaid delinquent taxes
- 2) Delinquent penalties
- 3) Redemption penalties
- 4) Redemption fee (§4102 (d))
- 5) Additional costs. Costs are described in §3704.7(c), §4112(a) and (b), §4672, §4672.1, §4672.2, §4673, and §4673.1(b) and include:
 - a) A minimum of \$35 for the cost of obtaining names and addresses of parties of interest and of mailing notices to these entities for each parcel, pursuant to §4112(a)(1). If the cost exceeds \$35, the charge may be increased to reflect the actual cost. For similar items, the charge may be established in terms of an average total cost rather than calculating the total cost of each item (*Government Code* §54985(a)).

Indirect costs as specified in the federal Office of Management and Budget Circular A-87, January 1, 1984, may be included (*Government Code* §54985(a)).

All the above-referenced costs and any increases for charge amounts should be reflected in the office fee schedule, which, if necessary, is annually adjusted by the county board of supervisors or its designee.

- b) \$6, pursuant to §4112(a)(2). This cost references a required fee for recording any notice by a county, pursuant to *Government Code* §27361.3. If the cost has increased, the current rate may be applied.
- c) \$1.50 state fee (§4672)
- d) \$150 county fee (§4112(a)(3))
- f) Personal contact or posting of property costs, if applicable (§4112(a)(4))
- g) Publication cost. This cost must be estimated, because the publication notice takes place several procedures after the minimum selling price is established (§4673).
- h) Up to \$100 for each parcel that is a primary residence for the last known assessee (§3704.7(c)). Indicators of this condition include:
 - 1) A valid homeowner's exemption
 - 2) Evidence showing that the mailing address on the tax bill is the same as the situs (§3704.7). This information should be available from your previous research; see **Section 5: Public Agency Purchase Eligibility Review**, page 7, or **Section 7: Nonprofit Organization Purchase Eligibility Review**, page 19.

IV. Process to Address an Injunction

If an injunction is brought against a particular parcel to prevent it from being sold at an agreement sale, take the following steps.

Step 1: Notify the county counsel.

- Step 2:**
- *If the county counsel is unable to lift the injunction or restraining order before the effective sale date or if the hearing is within 60 days of the sale, announce that the sale of the affected property be postponed (§3706.1).*
 - *If the order is lifted before the effective sale date or if a court hearing is scheduled for more than 60 days before the sale date, hold the sale as announced.*

V. Calculating the Power of Sale Schedule for Disaster-Damaged Property

Consider the following steps in order to calculate when property damaged by a local, state, or federally declared disaster is subject to power of sale.

Step 1: Calculate the Total Default Time

The default status for disaster-damaged property is suspended (tolled) until substantial repair is made or after five years have passed, whichever comes first. A disaster-damaged property will not be subject to power of sale in the standard five consecutive years after the initial date of default. Use the equation below to incorporate the time period during which default was suspended into the overall default time, from the date that the property first became defaulted to the current date.

$$X - Y = 5 \text{ years or more}$$

X represents the total time the parcel has been in default status, i.e., the current date minus the date the property first became defaulted. For example: Current date 11/01/2002 minus default date 07/01/1995 = 7 years and 4 months.

Y represents the total time the parcel has been in suspended default (tolled), i.e., the date the property was substantially repaired minus the date the damage occurred. For example: Repair date 8/01/2000 minus damage date 05/01/1997 = 3 years and 3 months.

In the example provided, the sum of $X - Y$ (7 years, 4 months – 3 years, 3 months) is 4 years and 1 month, which is less than 5 years. Thus, the property is not subject to power of sale, nor can it be offered for sale.

Once five years of default have passed for disaster-damaged property, additional considerations remain regarding the parcel becoming subject to power to sell. See Step 2.

Step 2: Calculate the Power of Sale Schedule

Assuming that the calculation in Step 1 has shown that a disaster-damaged property's total default time, less the suspended default time, exceeds five years, the next step is to determine when the property becomes subject to power of sale. The law states that all property that has been defaulted for five years or more becomes subject to power of sale as of 12:01p.m. on July 1 of the fifth year of default.

The Notice of Impending Power to Sell must be published on or before June 8 of the fifth year of default. If the tax collector fails to provide such notice, or the property has *not* been defaulted for five years or more as of June 8 of a given year (and thus could not be included in the notice), any sale made until proper notice is provided—within the statutory guidelines—would be invalid.

As such, if a disaster-damaged property's five-year default time is calculated to occur just after June 8 of a given year, the parcel would not qualify for inclusion in the current notice; it would have to appear in the following year's notice. Accordingly, it would not be subject to the power of sale until the following year.

VI. Index of Agreement Sale Forms (AGFs)

The following list outlines the forms relevant to the preparation, execution, and completion of an agreement sale. The corresponding form numbers from the *County Tax Collectors Reference Manual* are provided to facilitate cross-referencing between this guide and the manual.

Form #	(Tax Ref Manual No.)	Page
AGF-1	(SCO 8-17.1).....	5
AGF-2	(SCO 8-13).....	16-17
AGF-3	(SCO 8-14).....	18, 28
AGF-4	(SCO 8-15).....	26-27
AGF-6	(SCO 8-17).....	33
AGF-8	(SCO 8-05.2).....	38
AGF-9	(Figure 9.7a)	42
AGF-10	(Figure 9.7b)	43
AGF-11	(SCO 9-02).....	44
AGF-12	(SCO 8-19).....	49
AGF-13	(SCO 8-07).....	52
AGF-14	(SCO 8-20).....	55
AGF-15	(SCO 8-21).....	56-57
AGF-16	(SCO 8-16).....	8
AGF-17	(SCO 8-26).....	64-65

VII. Referenced Code Sections

Following are excerpts of the actual text from sections of the *Revenue and Taxation Code*, *Government Code*, and the *United States Code*. These are the sections of the codes that are cited in this handbook.

Revenue and Taxation Code

Section	Statute Text
---------	--------------

- | | |
|-------------|--|
| §121 | "Taxing agency" includes the State, county, and city. "Taxing agency" also includes every district that assesses property for taxation purposes and levies taxes or assessments on the property so assessed. |
| §122 | "Revenue district" includes every city and district for which the county officers assess property and collect taxes or assessments. |
| §480 | <p>(a) Whenever there occurs any change in ownership of real property or of a manufactured home that is subject to local property taxation and is assessed by the county assessor, the transferee shall file a signed change in ownership statement in the county where the real property or manufactured home is located, as provided for in subdivision (c). In the case of a change in ownership where the transferee is not locally assessed, no change in ownership statement is required.</p> <p>(b) The personal representative shall file a change in ownership statement with the county recorder or assessor in each county in which the decedent owned real property at the time of death that is subject to probate proceedings. The statement shall be filed prior to or at the time the inventory and appraisal is filed with the court clerk. In all other cases in which an interest in real property is transferred by reason of death, including a transfer through the medium of a trust, the change in ownership statement or statements shall be filed by the trustee (if the property was held in trust) or the transferee with the county recorder or assessor in each county in which the decedent owned an interest in real property within 150 days after the date of death.</p> <p>(c) Except as provided in subdivision (d), the change in ownership statement as required pursuant to subdivision (a) shall be declared to be true under penalty of perjury and shall give that information relative to the real property or manufactured home acquisition transaction as the board shall prescribe after consultation with the California Assessors' Association. The information shall include, but not be limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount, if any, of the consideration paid for the property, whether paid in money or otherwise, and the terms of the transaction. The change in ownership statement shall not include any question that is not germane to the assessment function.</p> |

§480

(cont.)

The statement shall contain a notice informing the transferee of the property tax relief available under Section 69.5. The statement shall contain a notice that is printed, with the title in at least 12-point boldface type and the body in at least 8-point boldface type, in the following form:

"Important Notice"

"The law requires any transferee acquiring an interest in real property or manufactured home subject to local property taxation, and that is assessed by the county assessor, to file a change in ownership statement with the county recorder or assessor. The change in ownership statement must be filed at the time of recording or, if the transfer is not recorded, within 45 days of the date of the change in ownership, except that where the change in ownership has occurred by reason of death the statement shall be filed within 150 days after the date of death, or if the estate is probated, shall be filed at the time the inventory and appraisal is filed. The failure to file a change in ownership statement within 45 days from the date of a written request by the assessor results in a penalty of either: (1) one hundred dollars (\$100), or (2) 10 percent of the taxes applicable to the new base year value reflecting the change in ownership of the real property or manufactured home, whichever is greater, but not to exceed two thousand five hundred dollars (\$2,500) if that failure to file was not willful. This penalty will be added to the assessment roll and shall be collected like any other delinquent property taxes, and be subject to the same penalties for nonpayment."

- (d) The change in ownership statement may be attached to or accompany the deed or other document evidencing a change in ownership filed for recording, in which case the notice, declaration under penalty of perjury, and any information contained in the deed or other transfer document otherwise required by subdivision (c) may be omitted.
- (e) If the document evidencing a change in ownership is recorded in the county recorder's office, then the statement shall be filled with the recorder at the time of recordation. However, the recordation of the deed or other document evidencing a change in ownership shall not be denied or delayed because of the failure to file a change of ownership statement, or filing of an incomplete statement, in accordance with this subdivision. If the document evidencing a change in ownership is not recorded or is recorded without the concurrent filing of a change in ownership statement, then the statement shall be filed with the assessor no later than 45 days from the date the change in ownership occurs, except that where the change in ownership has occurred by reason of death the statement shall be filed within 150 days after the date of death, or, if the estate is probated, shall be filed at the time the inventory and appraisal is filed.

- §3691** **(a) (1) (A)** Five years or more, or three years or more in the case of nonresidential commercial property, after the property has become tax defaulted, the tax collector shall have the power to sell and shall attempt to sell in accordance with Section 3692 all or any portion of tax-defaulted property that has not been redeemed, without regard to the boundaries of the parcels, as provided in this chapter, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to, or interest in, the property, may purchase at the sale. In the case of tax-defaulted property that has been damaged by a disaster in an area declared to be a disaster area by local, state, or federal officials and whose damage has not been substantially repaired, the five-year period set forth in this subdivision shall be tolled until five years have elapsed from the date the damage to the property was incurred.
- (B)** A county may elect, by an ordinance or resolution adopted by a majority vote of its entire governing body, to have the five-year time period described in subparagraph (A) apply to tax-defaulted nonresidential commercial property.
- (C)** For purposes of this subdivision, "nonresidential commercial property" means all property except the following:
- (i)** A constructed single-family or multifamily unit that is intended to be used primarily as a permanent residence, is used primarily as a permanent residence, or that is zoned as a residence, and the land on which that unit is constructed.
 - (ii)** Real property that is used and zoned for producing commercial agricultural commodities.
- (2)** When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.
- (3)** The tax collector shall provide notice of an intended sale under this subdivision in the manner prescribed by Sections 3704 and 3704.5 and any other applicable statute. If the intended sale is of nonresidential commercial property that has been tax-defaulted for fewer than five years, all of the following apply:
- (A)** On or before the notice date, the tax collector shall also mail, in the manner specified in paragraph (1) of subdivision (c) of Section 2924b of the Civil Code, notice containing any information contained in the publication required under Sections 3704 and 3704.5 to, as applicable, all of the following:
 - (i)** The parties specified in paragraph (2) of subdivision (c) of Section 2924b of the Civil Code.
 - (ii)** Each taxing agency specified in paragraph (3) of subdivision (c) of Section 2924b of the Civil Code.
 - (iii)** Any beneficiary of a deed of trust or a mortgagee of any mortgage recorded against the nonresidential commercial property, and any assignee or vendee of these beneficiaries or mortgagees.

§3691

(cont.)

(B) For purposes of this paragraph:

- (i)** "Notice date" means a date at least 90 days before an intended sale or at least 90 days before the date upon which the property may be sold.
- (ii)** "Recording date of the notice of default" as used in subdivision (c) of Section 2924b of the Civil Code means a date that is 30 days before the notice date.
- (iii)** "Deed of trust or mortgage being foreclosed" as used in subdivision (c) of Section 2924b of the Civil Code means the defaulted tax lien.

(b) (1) (A) Three years or more after the property has become tax defaulted and subject to a nuisance abatement lien or a request has been made by a city, county, city and county, or nonprofit organization, pursuant to Section 3692.4, to offer that property at the next scheduled public auction, the tax collector shall have the power to sell and may sell all or any portion of tax-defaulted property that has not been redeemed, without regard to the boundaries of parcels, as provided in this chapter, unless by other provisions of law the property is not subject to sale. Any person, regardless of any prior or existing lien on, claim to, or interest in, the property, may purchase at the sale.

(B) When a part of a tax-defaulted parcel is sold, the balance continues subject to redemption and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7.

(2) Before the tax collector sells vacant residential developed property pursuant to this subdivision, actual notice, by certified mail, shall be provided to the property owner, if the property owner's identity can be determined from the county assessor's or county recorder's records. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice.

(3) Before the tax collector sells vacant residential developed property pursuant to this subdivision, notice of the sale shall be given in the manner specified by Section 3704.7.

(c) The amendments made to this section by the act adding this subdivision apply to property that becomes tax defaulted on or after January 1, 2005.

§3695

If the governing body of any taxing agency does not, before the date of sale, file with the tax collector and the board of supervisors certified copies of a resolution adopted by the governing body objecting to the sale, the taxing agency has consented to the sale. If the taxing agency consents to the sale the lien of its taxes or assessments and any rights which it may have to the property as a result of such taxes or assessments are canceled by a sale under this chapter and it is entitled to its proper share of the proceeds deposited in the delinquent tax sale trust fund. If the taxing agency does object to the sale, the lien of its taxes or assessments or any rights which the taxing agency may have to the property are not affected by a sale under this chapter. Provided, however, that any taxing agency which is also a revenue district may not object to a sale unless it files with such objection an executed proposed agreement under Chapter 8 of this part to purchase the property, but not including an option to purchase, at a price not less than the minimum bid.

§3695**(cont.)**

If a taxing agency which is not also a revenue district objects to the sale and before the date of sale applies in writing to the board of supervisors to purchase the property under Chapter 8 of this part at a price equal to that approved by the board of supervisors, or upon a pro rata division of the proceeds of a sale as may be provided under Chapter 8, the tax collector shall not proceed with the sale.

§3695.4

In addition to the provisions in Section 3695 relative to objections to sales, the state or city or any taxing agency or revenue district may file with the county tax collector written objection to the sale of, along with an application to purchase in accordance with Chapter 8 (commencing with Section 3771), any property that is or may be needed for public use. The written objection shall specify the description of the property needed, whether the fee or an easement is required, and the public purpose to which the property is intended to be devoted. The objection and application shall be filed with the tax collector before the date of the first publication of the notice of intended sale pursuant to Sections 3702 and 3703. If the state, a city, taxing agency, or revenue district files an objection and application in compliance with this section, the tax collector may not proceed with the sale of the subject property.

§3695.5

In addition to the provisions in Sections 3695 and 3695.4 relative to objections to sales, any nonprofit organization may file with the county tax collector written objection to the sale for taxes of, and a written application to purchase in accordance with Chapter 8 (commencing with Section 3771), any residential or vacant property that the nonprofit organization states in writing that it will:

- (a) In the case of residential property, rehabilitate and sell or rent to, or otherwise use the property to serve, low-income persons
- (b) In the case of vacant real property, construct residential dwellings on the property and sell or rent the property to low-income persons, otherwise use the property to serve low-income persons, or dedicate the vacant property to public use, including those uses referred to in subdivision (a).

The objection and application shall be filed with the tax collector before the date of the first publication of the notice of intended sale pursuant to Sections 3702 and 3703. If the nonprofit organization files an objection and application in compliance with this section and with any condition of sale established pursuant to Section 3795.5, the tax collector may not proceed with the sale of the subject property.

The terms “nonprofit organization” and “low-income persons” and “rehabilitation” shall have the same meaning in this section as in Chapter 8 (commencing with Section 3771).

§3698.5

- (a) Except as provided in Section 3698.7, the minimum price at which property may be offered for sale pursuant to this chapter shall be an amount not less than the total amount necessary to redeem, plus costs. For purposes of this subdivision:

- (1) The "total amount necessary to redeem" is the sum of the following:

§3698.5

(cont.)

- (A)** The amount of defaulted taxes.
 - (B)** Delinquent penalties and costs.
 - (C)** Redemption penalties.
 - (D)** A redemption fee.
- (2)** "Costs" are those amounts described in subdivision (c) of Section 3704.7, subdivisions (a) and (b) of Section 4112, Section 4672, 4672.1, 4672.2, 4673, and subdivision (b) of Section 4673.1.
- (b)** This section shall not apply to property or interests that qualify for sale in accordance with the provisions of subdivisions (b) and (c) of Section 3692.
- (c)** Where the property or property interests have been offered for sale at least once and no acceptable bids therefor have been received at the minimum price determined pursuant to subdivision (a), the tax collector may, in his or her discretion and with approval of the board of supervisors, offer that same property or those interests at the same or next scheduled sale at a minimum price that the tax collector deems appropriate in light of the most current assessed valuation of that property or those interests, or any unique circumstances with respect to that property or those interests.

§3698.7

- (a)** With respect to property for which a property tax welfare exemption has been granted and that has become tax-defaulted, the minimum price at which the property may be offered for sale pursuant to this chapter shall be the higher of the following:
 - (1)** Fifty percent of the fair market value of the property. For the purposes of this paragraph, "fair market value" means the amount as defined in Section 110 as determined pursuant to an appraisal of the property by the county assessor within one year immediately preceding the date of the public auction. From the proceeds of the sale, there shall be distributed to the county general fund an amount to reimburse the county for the cost of appraising the property. The value of the property as determined by the assessor pursuant to an appraisal shall be conclusively presumed to be the fair market value of the property for the purpose of determining the minimum price at which the property may be offered for sale.
 - (2)** The total amount necessary to redeem, plus costs. For purposes of this paragraph:
 - (A)** The "total amount necessary to redeem" is the sum of the following:
 - (i)** The amount of defaulted taxes.
 - (ii)** Delinquent penalties and costs.
 - (iii)** Redemption penalties.
 - (iv)** A redemption fee.
 - (B)** "Costs" are those amounts described in subdivision (c) of Section 3704.7, subdivisions (a) and (b) of Section 4112, Sections 4672, 4672.1, 4672.2, and 4673, and subdivision (b) of Section 4673.1.

§3698.7**(cont.)**

- (a) This section shall not apply to property or interests that qualify for sale in accordance with the provisions of subdivisions (b) and (c) of Section 3692.
- (b) Where property or property interests have been offered for sale at least once and no acceptable bids therefor have been received, the tax collector may, in his or her discretion and with the approval of the board of supervisors, offer that property or those interests at the next scheduled sale at a minimum price that the tax collector deems appropriate.

§3706

If the property is not redeemed before the close of business on the last business day prior to the date of the sale of the property, the tax collector shall sell the property at public auction to the highest bidder at the time and place fixed.

In the case of a sale at public auction, no bid shall be accepted for a sum less than the minimum price approved in the resolution of the board of supervisors; provided, however, the tax collector may reduce such minimum price when a partial redemption has been made under Chapter 2, Part 7, Division 1 of this code, or when a partial cancellation has been made under Chapter 4, Part 9, Division 1 of this code, after such price was fixed, by not more than the ratio that the delinquency on the portion so redeemed or canceled bears to the delinquency upon the whole.

§3707

- (a)(1) The right of redemption shall terminate at the close of business on the last business day prior to the date the sale begins.
- (2) If the tax collector approves a sale as a credit transaction and does not receive full payment on or before the date upon which the tax collector requires pursuant to Section 3693.1, the right of redemption is revived on the next business day following that date.
- (b) Notwithstanding any other provision of law, any remittance sent by mail for redemption of tax-defaulted property must be received in the tax collector's office prior to the time established in subdivision (a).
- (c) The sale shall be deemed complete when a qualified bid is accepted by the tax collector.
- (d) The right of redemption revives if the property is not sold.

§3708

On receiving the full purchase price at any sale under this chapter, the tax collector shall, without charge, execute a deed to the purchaser.

§3708.1

Upon execution the tax collector shall immediately record the deed with the county recorder and pay the recording fees. Recording of the deed shall constitute delivery thereof to the grantee named in the deed.

§3708.5

If a deed to the purchaser contains a clerical error or misstatement of fact, a corrected deed may be issued by the tax collector and recorded with the county recorder without charge. The new deed shall contain a statement of reasons for its issuance and, as far as practical, shall be the same as the original except where corrected.

- §3710** In addition to the usual provisions of a deed conveying real property, the deed shall specify all of the following:
- (a) That the legally levied taxes on the subject property were duly declared to be in default and were a lien on the property.
 - (b) That the tax collector, pursuant to a statutory power of sale, has sold the property.
 - (c) If a taxing agency objected to the sale, the fact of the objection and the name of the objecting taxing agency.
 - (d) The name of the purchaser, the date the property was sold, and the amount for which the property was sold.
 - (e) That the property is therefore conveyed to the purchaser according to law.
- §3712** The deed conveys title to the purchaser free of all encumbrances of any kind existing before the sale, except:
- (a) Any lien for installments of taxes and special assessments, which installments will become payable upon the secured roll after the time of the sale.
 - (b) The lien for taxes or assessments or other rights of any taxing agency which does not consent to the sale under this chapter.
 - (c) Liens for special assessments levied upon the property conveyed which were, at the time of the sale under this chapter, not included in the amount necessary to redeem the tax-defaulted property, and, where a taxing agency which collects its own taxes has consented to the sale under this chapter, not included in the amount required to redeem from sale to the taxing agency.
 - (d) Easements constituting servitudes upon or burdens to the property; water rights, the record title to which is held separately from the title to the property; and restrictions of record.
 - (e) Unaccepted, recorded, irrevocable offers of dedication of the property to the public or a public entity for a public purpose, and recorded options of any taxing agency to purchase the property of any interest therein for a public purpose.
 - (f) Unpaid assessments under the Improvement Bond Act of 1915 (Division 10 (commencing with Section 8500) of the Streets and Highways Code) which are not satisfied as a result of the sale proceeds being applied pursuant to Chapter 1.3 (commencing with Section 4671) of Part 8.
 - (g) Any federal Internal Revenue Service liens which, pursuant to provisions of federal law, are not discharged by the sale, even though the tax collector has provided proper notice to the Internal Revenue Service before that date.
 - (h) Unpaid special taxes under the Mello-Roos Community Facilities Act of 1982 (Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code) that are not satisfied as a result of the sale proceeds being applied pursuant to Chapter 1.3 (commencing with Section 4671) of Part 8.

- §3718** The tax collector shall deposit the money received from the sale like tax collections and shall immediately transmit a report of sale to the county treasurer and a duplicate of the report to the county auditor. The report shall show:
- (a) The cost of advertising the sale, including but not limited to the published notice required by Section 3702.
 - (b) The sums received for individual parcels.
 - (c) Identification of the parcels by year, page and number of the delinquent and current roll.
 - (d) The cost of recording the deeds.
- §3719** The amount of the cost of advertising the sale, including but not limited to the published notice required by Section 3702, shall be deposited in the county general fund and the balance, excepting the recorder's fee, shall be deposited in the delinquent tax sale trust fund.
- §3720** On receipt of the duplicate report of sale, the auditor shall mail a copy of it to the secretary or clerk of the governing board of each taxing agency, not also a revenue district, and other than the State and the county, entitled to levy taxes or assessments on the property sold. He shall also enclose a notice for claims, specifying:
- (a) A description of the property.
 - (b) That claims on the amount received from the sale shall be made within 60 days after the mailing of the notice for claims. Such duplicate copies of report of sale shall be mailed for only those properties on which the taxing agency has consented to sale and thus is entitled to its proper share of the proceeds deposited in the delinquent tax sale trust fund.
- §3772.5** For the purposes on this chapter:
- (a) “Low-income persons” means persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code.
 - (b) “Nonprofit organization” means a nonprofit organization incorporated pursuant to Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code for the purpose of acquisition of either of the following:
 - (1) Single-family or multifamily dwellings for rehabilitation and sale or rent to low-income persons, or for other use to serve low-income persons.
 - (2) Vacant land for construction of residential dwellings and subsequent sale or rent to low-income persons, for other use to serve low-income persons, or for dedication of that vacant land to public use.
 - (c) “Rehabilitation” means repairs and improvements to a substandard building. As defined in Section 17920.3 of the Health and Safety Code, necessary to make it a building that is not a substandard building.

- §3775** Whenever the county or the State is the purchaser the price shall be agreed upon between the county board of supervisors and the State Controller and the governing body of any city in which such property may be located and such price shall be paid to the county tax collector for distribution.
- §3791** Whenever property tax-defaulted for five years or more has been sold for taxes for two or more years or has been deeded for taxes to a taxing agency other than the state, the governing body of the taxing agency may, as provided in this article, make an agreement with the board of supervisors of the county in which the property is situated for the purchase of, or for an option to purchase, all or any of the tax-defaulted property or any part thereof including a right-of-way or other easement. When a part of a tax-defaulted parcel is sold the balance continues subject to redemption, if the right of redemption has not been terminated, and shall be separately valued for the purpose of redemption in the manner provided by Chapter 2 (commencing with Section 4131) of Part 7 of this division, except that no application need be made.
- §3791.3** Whenever property has been tax-defaulted for five years or more, whether or not the property is subject to or has been sold or deeded for taxes to a taxing agency other than the state, the state, county, any revenue district the taxes of which on the property are collected by county officers, or a redevelopment agency created pursuant to the California Community Redevelopment Law, may purchase the property or any part thereof, including any right-of-way or other easement, pursuant to this chapter. A redevelopment agency, however, may only purchase such tax-defaulted property located within a designated survey area.
- §3791.4** (a) When residential or vacant property has been tax defaulted for five years or more, or three years or more after the property has become tax-defaulted and is subject to a nuisance abatement lien, that property may, with the approval of either the board of supervisors of the county in which it is located or that board's designee, be purchased pursuant to this chapter by a nonprofit organization, provided that:
- (1) In the case of residential property, the nonprofit organization shall rehabilitate and sell or rent to, or otherwise use the property to serve, low-income persons.
 - (2) In the case of vacant property, the nonprofit organization shall construct residential dwellings on the property and sell or rent the property to low-income persons, otherwise use the property to serve low-income persons, or dedicate the vacant property to public use.
- (b) The terms and conditions of any conveyance to a nonprofit corporation pursuant to this section shall be specified in the deed or other instrument of conveyance.
- §3793** Any agreement under this article may:
- (a) Cover any tax-defaulted property without regard to the boundaries of the parcels which were assessed.
 - (b) Provide for sale of various portions of the property at various prices and on various terms and for an option to purchase any remaining portion.

- §3793.1** (a) The sales price of any property sold under this article shall include, at a minimum, the amounts of all of the following:
- (1) All defaulted taxes and assessments, and all associated penalties and costs.
 - (2) Redemption penalties and fees incurred through the month of the sale.
 - (3) All costs of the sale.
- (b) If the property or property interests have been offered for sale under the provisions of Chapter 7 (commencing with Section 3691) at least once and no acceptable bids therefor have been received, the tax collector may, in his or her discretion and with the approval of the board of supervisors or that board's designee, offer that property or those interests at a minimum price that the tax collector deems appropriate.
- (c) The board of supervisors, or its designee, may permit a nonprofit organization to purchase property or property interests by way of installment payments.
- §3794** No option to purchase property under this article shall be given for longer than three years.
- §3794.3** A sale under this chapter shall take place only if approved by the board of supervisors
- §3795** The agreement shall be submitted to the Controller. If he or she does not approve the agreement, he or she shall return the agreement to each party with a statement of his or her objections to it, and thereafter a new or modified agreement may be made. If the Controller approves the agreement, he or she shall sign the executed copy, return the signed agreement to the tax collector, and keep a copy on file in his or her office.
- §3795.5** In the case of an agreement involving a nonprofit organization, the board of supervisors may establish conditions of sale, including reporting, to assure the completion of rehabilitation within a reasonable time and maximum benefit to low-income persons. These conditions shall include, but are not limited to, the following:
- (a) Requiring compliance with a jurisdiction's consolidated plan or a community development plan.
 - (b) Articles of incorporation filed with the Secretary of State, stating that the organization is incorporated for the purposes specified in subdivision (b) of Section 3772.5.
- §3796** By written authorization, the Controller shall then direct the county tax collector to cause notice of the agreement to be given.

§3797 The notice of agreement shall state:

- (a) A description of the property substantially as described in the agreement.
- (b) The name of the last assessee of the property. To ascertain the name of the last assessee of the tax-defaulted property an examination shall be made of the assessment of this property on the last equalized roll, or if this property does not appear thereon, the last previous roll on which it was assessed.
- (c) That an agreement for the sale of the property or for an option to purchase it, or both, as the case may be, has been made by the board of supervisors of the county with the taxing agency or nonprofit organization named in the agreement and has been approved by the Controller.
- (d) That a copy of the agreement is on file in the office of the board of supervisors.
- (e) If the right to redeem the property has not already been terminated, there shall also be a statement that unless the property is redeemed before the agreement becomes effective, the right of redemption will cease.
- (f) The date and time that the agreement will become effective.
- (g) That parties of interest, as defined in Section 4675, have the right to file a claim with the county for any proceeds received by the tax collector under the agreement which are in excess of the liens and costs required to be paid from the proceeds.
- (h) If excess proceeds result from the agreement, notice will be given to parties of interest pursuant to law.

§3798 The notice of agreement shall be published once a week for three successive weeks in a newspaper of general circulation published in the county, or, if none, then by posting copies of the notice in three public places in the county.

§3798.1 If in the judgment of the board of supervisors any property to be sold under this chapter would bring at auction less than the cost of publication in a newspaper, the publication may be made in the same manner as if there were no newspaper published in the county.

§3799 The tax collector shall mail a copy of the notice not less than 45 nor more than 60 days prior to the effective date of the agreement, by registered mail to the last assessee of each portion of the property and to parties of interest, as defined in Section 4675, at their last known address.

To ascertain the address of the last assessee of the property an examination shall be made of the assessment of this property on the rolls beginning with the year of delinquency to and including that of the last equalized roll. The tax collector shall make reasonable efforts to ascertain the identity and address of parties of interest.

§3799**(cont.)**

It is not necessary to mail a copy of the notice to any party who files with the tax collector a written acknowledgment of receipt of a copy of the notice or a waiver of the notice. The validity of any sale under this chapter shall not be affected if the tax collector's reasonable effort fails to disclose the name and last known mailing address of parties of interest or if a party of interest does not receive mailed notice.

§3801

An affidavit showing that the notice of agreement has been given as prescribed shall be filed in the office of the county tax collector.

§3802

The agreement shall become effective no sooner than 5:01 p.m. on the 21st day after the first publication of the notice of agreement.

§3803

If not previously terminated, all rights to redeem the property shall terminate on the date and at the time the agreement becomes effective. If all or any portion of the property is redeemed before the agreement becomes effective, the agreement is null as to the property redeemed.

§3804

(a) If any portion of the property is not so redeemed, the tax collector shall, without charge, execute to the purchaser a deed of the property as to which either:

(1) The agreement provides that no payment is to be made by the purchaser, or

(2) There has been paid the purchase price in compliance with the terms of the agreement.

(b) The tax collector shall promptly deliver the deed described in subdivision (a) to the county recorder for recordation and shall send a conformed copy of that deed to the Controller. The recorder shall record the deed and prepare necessary conformed copies without charge.

§3805

In addition to the usual provisions of a deed conveying real property, the deed shall specify:

(a) That the real property was subject to a power of sale pursuant to Section 3691 for nonpayment of taxes which had been legally levied and were a lien on the property.

(b) The name of the purchaser.

(c) Any condition deemed necessary to effect compliance with the agreement, including, but not limited to, a condition that the real property be used by the taxing agency or nonprofit organization for the public use specified in the agreement.

§3811

On execution of the deed to the taxing agency or nonprofit organization, and on receipt of a notice of resale of the property by the taxing agency the tax collector shall report the following within 10 days to the Controller, the assessor, and the auditor:

§3811

(cont.)

- (a)** The name of the purchaser.
- (b)** The date of the deed to the taxing agency or nonprofit organization, or in the event of resale the date of the deed by the taxing agency.
- (c)** The amount for which the property was sold or in the event of resale the net amount after deducting allowable expenses.
- (d)** The description of the property conveyed.

§3813

The tax collector shall note the fact and date of a sale under this chapter on the margin of each delinquent and current roll on which the property appears, opposite the property sold. Any charges against the collector having custody of the delinquent and current rolls shall be reduced accordingly.

§4101

Tax-defaulted property may be redeemed until the right of redemption is terminated.

§4112

- (a)** When tax-defaulted property subject to the notice recorded under Section 3691.4 is redeemed, the tax collector shall collect all of the following, in addition to the amount required to redeem:
 - (1)** A fee of thirty-five dollars (\$35) that shall be distributed to the county general fund to reimburse the county for its cost of obtaining the names and last known mailing addresses of, and for mailing notices required by Section 3701 to, parties of interest as defined by Section 4675.
 - (2)** A fee in the amount required by Section 27361.3 of the Government Code that shall be distributed to the county recorder for the cost of recordation of a rescission of the notice, as required by subdivision (c).
 - (3)** A fee of one hundred fifty dollars (\$150) if redemption is within 90 days of the proposed date for the tax sale of the redeemed property. In the case of unsold tax sale properties remaining on the abstract after the tax sale, the fee shall become a part of the redemption amount and collectible whenever the property is redeemed. The fee shall be distributed to the county general fund to reimburse the county for costs incurred by the county in preparing to conduct that sale.
 - (4)** The amount described in subdivision (c) of Section 3704.7 to reimburse the county for the cost of a personal contact required by that section.
- (b)** Notwithstanding subdivision (a), if the tax-defaulted property is redeemed prior to the proposed sale, but after the county has incurred notice or publication costs pursuant to Section 3702 in connection with a notice of intended sale, a fee in an amount reasonably necessary to reimburse the tax collector for those costs may be collected.

§4112**(cont.)**

- (c) When tax-defaulted property subject to the notice recorded under Section 3691.4 is redeemed, the notice becomes null and void and the tax collector shall execute and record with the county recorder a rescission of the notice in the form prescribed by the Controller. The rescission shall be acknowledged by the county clerk, without charge.
- (d) Any fee imposed under paragraph (1) of subdivision (a) or subdivision (b) shall be subject to the requirements of Section 54986 of the Government Code.

§4672

- (a) There shall be distributed to the State of California, to be placed in the General Fund, one dollar and fifty cents (\$1.50) for all or any portion of each separately valued parcel of real property that is both subject to a power of sale pursuant to Section 3691 and sold to private parties or to a taxing agency.
- (b) The one dollar and fifty cents (\$1.50) required to be distributed, pursuant to subdivision (a), shall be paid from the total proceeds of the sale. If the total amount of proceeds from the sale is insufficient, the one dollar and fifty cents (\$1.50) shall be reduced accordingly.

§4672.1

- (a) There shall be distributed to the county general fund to reimburse the county for the cost of conducting the sale, one hundred fifty dollars (\$150) for all or any portion of each separately valued parcel of real property subject to a power of sale pursuant to Section 3691 and sold to private parties or to a taxing agency.
- (b) The one hundred fifty dollars (\$150) required to be distributed pursuant to subdivision (a), shall be paid from the total proceeds of the sale only after satisfaction of the amount specified in Section 4672. If the amount of proceeds from the sale is insufficient, the one hundred fifty dollars (\$150) shall be reduced accordingly.

§4672.2

There shall be distributed to the county general fund to reimburse the county for the cost of giving notice pursuant to Section 3701 thirty-five dollars (\$35) for all or any portion of each separately valued parcel of real property subject to a power to sale pursuant to Section 3691 and sold to private parties or to taxing agencies. Thirty-five dollars (\$35) for property sold shall be paid from the total amount to be distributed after satisfaction of the amounts specified in Sections 4672 and 4672.1. If the amount is insufficient, the thirty-five dollars (\$35) shall be reduced accordingly.

§4672.3

- (a) To reimburse the county for the costs of a personal contact, there shall be distributed to the tax collector a sum equal to the total amount of costs of the tax collector, but not to exceed one hundred dollars (\$100), incurred in conducting the personal contact pursuant to Section 3704.7, for all or any portion of each separately valued parcel of real property subject to a power of sale and sold to private parties or a taxing agency.
- (b) The amount of costs shall be paid from the total amount to be distributed from the sold property, after satisfaction of the amount specified in Section 4672. If, after satisfaction of the amount specified in Section 4672, there is insufficient funds to pay the costs specified in subdivision (a), the costs shall be reduced accordingly.

§4673 Amounts to reimburse the county for the cost of advertising sales of tax-defaulted property shall be distributed to the county general fund as provided in Section 3719.

§4673.1 After satisfaction of the amount specified in Sections 4672, 4672.1, and 4673, the proceeds shall be distributed as follows:

(a) An amount of the proceeds up to but no greater than the amount required, at the time of sale, to redeem the property from tax default and the sale to any taxing agency entitled to share in the proceeds shall be distributed as follows:

(1) A pro rata share shall be distributed to each assessment fund in an amount bearing the same proportion as the assessment due each fund bears to the total amount of taxes and assessments necessary to redeem the property at the time of sale.

(2) The remaining balance of the proceeds to be distributed under this section shall be distributed to each tax fund in an amount bearing the same proportion to the balance remaining as the tax rate for each fund bears to the total tax rate applicable to the property for the fiscal year preceding that in which the property was sold.

After satisfaction of the amounts specified in subdivision (a), an amount of the proceeds necessary to satisfy current taxes and assessments and applicable penalties and costs thereon for the fiscal year in which the tax sale is held shall be distributed as provided in Chapter 1a (commencing with Section 4653) of this part. Current taxes and assessments referred to herein include taxes and assessments which would have been levied on the property if the property were not tax-deeded to any taxing agency and remains subject to sale by, or redemption from, the taxing agency.

§4674 Any excess in the proceeds deposited in the delinquent tax sale trust fund remaining after satisfaction of the amounts distributed under Sections 4672, 4672.1, 4672.2, 4673, and 4673.1 shall be retained in the fund on account of, and may be claimed by parties of interest in the property as provided in, Section 4675. At the expiration of one year following the recordation of the tax deed to purchaser, any excess proceeds not claimed under Section 4675 shall be distributed as provided in paragraph (2) of subdivision (a) of Section 4673.1, except prior to the distribution, the county may deduct those costs of maintaining the redemption and tax-defaulted property files, and those costs of administering and processing the claims for excess proceeds, that have not been recovered under any other provision of law.

§4675 (a) Any party of interest in the property may file with the county a claim for the excess proceeds, in proportion to his or her interest held with others of equal priority in the property at the time of sale, at any time prior to the expiration of one year following the recordation of the tax collector's deed to the purchaser.

(b) After the property has been sold, a party of interest in the property at the time of the sale may assign his or her right to claim the excess proceeds only by a dated, written instrument that explicitly states that the right to claim the excess proceeds is being assigned, and only after each party to the proposed assignment has disclosed to each other party to the proposed assignment all facts of which he or she is aware relating to the value of the right that is being assigned.

§4675**(cont.)**

- (c) Any attempted assignment that does not comply with these requirements shall have no effect. This paragraph shall apply only with respect to assignments on or after the effective date of this paragraph. In addition, any person or entity who in any way acts on behalf of, or in place of, any party of interest with respect to filing a claim for any excess proceeds shall submit proof with the claim that the amount of the excess proceeds has been disclosed to the party of interest and that the party of interest has been advised of his or her right to file a claim for the excess proceeds on his or her own behalf.
- (d) The claims shall contain any information and proof deemed necessary by the board of supervisors to establish the claimant's rights to all or any portion of the excess proceeds.
- (e) No sooner than one year following the recordation of the tax collector's deed to the purchaser, and if the excess proceeds have been claimed by any party of interest as provided herein, the excess proceeds shall be distributed on order of the board of supervisors to the parties of interest who have claimed the excess proceeds in the order of priority set forth in subdivisions (a) and (b). For the purposes of this article, parties of interest and their order of priority are:
 - (1) First, lienholders of record prior to the recordation of the tax deed to the purchaser in the order of their priority.
 - (2) Second, any person with the title of record to all or any portion of the property prior to the recordation of the tax deed to the purchaser.
- (f) In the event that a person with title of record is deceased at the time of the distribution of excess proceeds, the heirs may submit an affidavit pursuant to Chapter 3 (commencing with Section 13100) of Part 1 of Division 8 of the Probate Code, to support their claim for excess proceeds.
- (g) Any action or proceeding to review the decision of the board of supervisors shall be commenced within 90 days after the date of that decision of the board of supervisors.

§4676

When excess proceeds from the sale of tax-defaulted property exceeds one hundred fifty dollars (\$150), the county shall provide notice of the right to claim the excess proceeds, as provided herein.

- (a) No later than 90 days after the sale of the property, the county shall mail written notice of the right to claim excess proceeds to the last known mailing address of parties of interest, as defined in Section 4675. The county shall make a reasonable effort to obtain the name and last known mailing address of parties of interest.
- (b) If the last known address of a party of interest cannot be obtained, the county shall publish notice of the right to claim excess proceeds in a newspaper of general circulation in the county. The notice shall be published once a week for three successive weeks and shall commence no later than 90 days after the sale of such property.

The cost of obtaining the name and last known mailing address of parties of interest and of mailing or publishing the notices required herein shall be deducted from the excess proceeds and shall be distributed to the county general fund.

§4807 No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against any county, municipality, or district, or any officer thereof, to prevent or enjoin the collection of property taxes sought to be collected. In the case of a collection of taxes pursuant to a bankruptcy proceeding, the county may request a reasonable amount of attorney's fees.

§4986.6. (a) When any real property escheats to the state after the lien date and is not distributed by description, either because it is unknown, or is included in a general distribution clause without description, or is property as to which no probate proceedings have been taken, all taxes levied upon the real property are valid and any tax sale for those taxes conveys the same title thereto as if no escheat had occurred, notwithstanding any provision of law to the contrary. All those taxes levied upon the real property and tax sales duly taken pursuant to law occurring before the effective date of this section are hereby validated.

(b) If real property as described in subdivision (a) is discovered prior to tax sale by delivery to the tax collector of a certified death certificate, the public administrator of the county where the decedent resided at the time of death, and in the county in which the property is situated, if different, shall be notified of the decedent's property that is subject to loss, injury, waste or misappropriation under Section 7600 of the Probate Code. The public administrator of the county where the decedent resided at the time of death shall take possession or control of the property under Section 7601 of Probate Code and conduct a probate investigation as authorized under Sections 7602 and 7603 of the Probate Code. Following the probate investigation, the public administrator shall do one of the following:

(1) If a person with a higher priority cannot be found to assume responsibility for the estate, the public administrator of the county where the decedent resided at the time of death shall immediately commence probate proceedings with respect to the property, and the tax sale may not be made. The probate proceedings may be summary proceedings, as authorized by Section 7660 of the Probate Code, or formal proceedings as authorized by Letters of Administration from the Superior Court under Section 7620 of the Probate Code. A tax sale may not be made until the probate process is completed.

(2) If a person with a higher priority cannot be found to assume responsibility for the estate, and the value of the estate will not cover the taxes, the secured liens, and the cost of probate, the public administrator of the county where the decedent resided at the time of death, as authorized by Section 7603 of Probate Code, shall notify the tax collector in writing that the public administrator has investigated the estate and has determined that the anticipated equity in the property after settlement of all secured liens and taxes does not warrant opening estate administration, at which time the tax sale may proceed.

Government Code

Section	Statute Text
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§27361.3	Notwithstanding any contrary provision of the law, the fee for recording every release of lien, encumbrance, or notice by the State, or any municipality, county, city, district or other political subdivision shall be eight dollars (\$8) if the original lien, encumbrance, or notice was recorded without fee as provided by Section 27383 of the Government Code.
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No fee shall be charged for recording a release of lien, encumbrance, or notice which was recorded in error by the state, or any municipality, county, city, district or other political subdivision if there is noted on the face of the release of lien, encumbrance, or notice a statement to that effect.

Two dollars (\$2) for recording each release of lien pursuant to this section shall be available solely to support, maintain, improve, and provide for the full operation for modernized creation, retention, and retrieval of information in each county's system of recorded documents.

§54985	(a) Notwithstanding any other provision of law that prescribes an amount or otherwise limits the amount of a fee or charge that may be levied by a county, a county service area, or a county waterworks district governed by a county board of supervisors, a county board of supervisors shall have authority to increase or decrease a fee or charge, that is otherwise authorized to be levied by another provision of law, in the amount reasonably necessary to recover the cost of providing any product or service or the cost of enforcing any regulation for which the fee or charge is levied. The fee or charge may reflect the average cost of providing any product or service or enforcing any regulation. Indirect costs that may be reflected in the cost of providing any product or service or cost of enforcing a regulation shall be limited to those items that are included in the federal Office of Management and Budget Circular A-87 on January 1, 1984.
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Health and Safety Code

Section	Statute Text
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§17920	As used in this part:
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| (a) | "Approved" means acceptable to the department. |
| (b) | "Building" means a structure subject to this part. |
| (c) | "Building standard" means building standard as defined in Section 18909. |
| (d) | "Department" means the Department of Housing and Community Development. |
| (e) | "Enforcement" means diligent effort to secure compliance, including review of plans and permit applications, response to complaints, citation of violations, and other legal process. Except as otherwise provided in this part, "enforcement" may, but need not, include inspections of existing buildings on which no complaint or permit application has been filed, and effort to secure compliance as to these existing buildings. |

§17920

(cont.)

- (f) "Fire protection district" means any special district, or any other municipal or public corporation or district, which is authorized by law to provide fire protection and prevention services.
- (g) "Labeled" means equipment or materials to which has been attached a label, symbol, or other identifying mark of an organization, approved by the department, that maintains a periodic inspection program of production of labeled products, installations, equipment, or materials and by whose labeling the manufacturer indicates compliance with appropriate standards or performance in a specified manner.
- (h) "Listed" means all products that appear in a list published by an approved testing or listing agency.
- (i) "Listing agency" means an agency approved by the department that is in the business of listing and labeling products, materials, equipment, and installations tested by an approved testing agency, and that maintains a periodic inspection program on current production of listed products, equipment, and installations, and that, at least annually, makes available a published report of these listings.
- (j) "Noise insulation" means the protection of persons within buildings from excessive noise, however generated, originating within or without such buildings.
- (k) "Nuisance" means any nuisance defined pursuant to Part 3 (commencing with Section 3479) of Division 4 of the Civil Code, or any other form of nuisance recognized at common law or in equity.
- (l) "Public entity" has the same meaning as defined in Section 811.2 of the Government Code.
- (m) "Testing agency" means an agency approved by the department as qualified and equipped for testing of products, materials, equipment, and installations in accordance with nationally recognized standards.

§18909

Building Standard

- (a) "Building standard" means any rule, regulation, order or other requirement, including any amendment or repeal of that requirement, which specifically regulates, requires, or forbids the method of use, properties, performance, or types of materials used in the construction, alteration, improvement, repair, or rehabilitation of a building, structure, factory-built housing, or other improvement to real property, including fixtures therein, and as determined by the commission.
- (b) Except as provided in subdivision (d), "building standard" includes architectural and design functions of a building or structure, including, but not limited to, number and location of doors, windows, and other openings, stress or loading characteristics of materials, and methods of fabrication, clearances, and other functions.
- (c) "Building standard" includes a regulation or rule relating to the implementation or enforcement of a building standard not otherwise governed by statute, but does not include the adoption of procedural ordinances by a city or other public agency relating to civil administration, or criminal procedures and remedies available for enforcing code violations.

**§18909
(cont.)**

- (d) "Building standard" does not include any safety regulations which any state agency is authorized to adopt relating to the operation of machinery and equipment used in manufacturing, processing, or fabricating, including, but not limited to, warehousing and food processing operations, but not including safety regulations relating to permanent appendages, accessories, apparatus, appliances, and equipment attached to the building as a part thereof, as determined by the commission.
- (e) "Building standard" does not include temporary scaffoldings and similar temporary safety devices and procedures, which are used in the erection, demolition, moving, or alteration of buildings.
- (f) "Building standard" does not include any regulation relating to operations or procedures established for the administration of a program of a state agency or for the internal management of a state agency.
- (g) "Building standard" does not include any regulation, rule, order, or standard which pertains to mobilehomes, manufactured homes, commercial coaches, special purpose commercial coaches, or recreational vehicles.
- (h) "Building standard" does not include any regulation, rule, or order or standard which pertains to a mobilehome park, recreational vehicle park, temporary recreational vehicle park, or travel trailer park, except that "building standard" includes the construction of permanent buildings and plumbing, electrical, and fuel gas equipment and installations within permanent buildings in mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, or travel trailer parks. For purposes of this subdivision, "permanent building" means any permanent structure constructed in the mobilehome park, recreational vehicle park, temporary recreational vehicle park, or travel trailer park which is a permanent facility under the control and ownership of the park operator.
- (i) "Building standard" does not include any regulation, rule, order, or standard which pertains to mausoleums regulated under Part 5 (commencing with Section 9501) of Division 8.
- (j) "Building standard" does not include any regulation adopted by the California Integrated Waste Management Board, The Department of Toxic Substances Control or the State Water Resources Control Board concerning the discharge of waste to land or the treatment, transfer, storage, resource recovery, disposal, or recycling of the waste.

United States Code

Section	Statute Text
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Title 26, §7425(c)(1)	
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	Notice of Sale
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	Notice of sale to which subsection (b) applies shall be given (in accordance with regulations prescribed by the Secretary) in writing, registered or certified mail or by personal service, not less than 25 days prior to such sale, to the Secretary.
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Note: Secretary is defined as the United States Attorney General (USC Title 18, §36139(c)).

VIII. Court Decisions

1. **First Corporation, Inc. v. County of Santa Clara** (retyped from original appearance)

**FIRST CORPORATION, INC. V.
COUNTY OF SANTA CLARA**
146 Cal. App. 3d 841, 194 Ca. Rptr. 752 [Sept. 1893]

HEADNOTES

Classified to California Digest of Official Reports, 3d Series

- (1) **Property Taxes § 67 – Sale for Delinquent Taxes – Recovery of Excess of Sale Price Over Tax Liability – Fractional Ownership Interest.** – In an action by the sole claimant to the excess proceeds of real property sold by the state for nonpayment of taxes, in which the claimant had only a fractional share in the property before its sale by the state, the trial court properly determined that the claimant was not entitled to the entire excess of proceeds remaining after satisfaction of the costs of sale and the unpaid tax assessments; rather, it was entitled only to its fractional share. Rev. & Tax. Code, § 4674, provides that such excess proceeds are to be held on account of and may be claimed by the parties of interest in the property, and that any unclaimed excess proceeds are to be distributed to the taxing agencies which had unpaid assessments against the property; also, Rev. & Tax. Code, § 4675, provides that excess proceeds are to be distributed only to the parties of interest who have claimed them. Thus, since the rights to the excess proceeds were created when the proceeds came into existence, the distribution rights were subject to the general rule that when property rights are simultaneously created in several parties, the claiming parties do not succeed to the rights of the nonclaiming parties. Moreover, public policy did not dictate a distribution of the unclaimed proceeds to other claimants, rather than to the taxing agencies.

[See Cal. Jur. 3d, Property Taxes, § 177; Am. Jur. 2d, State and Local Taxation, §911.]

Counsel

Marinos, Styn & Studebaker and Jeffrey N. Garland for Plaintiff and Appellant.

Selby Brown, Jr., County Counsel, and Byron T. Athan, Deputy County Counsel, for Defendants and Respondents.

2. Numitor Gold Mining Co. v. Katzer

(retyped from original appearance)

NUMITOR GOLD MINING CO. v.
KATZER

83 Cal. App. 161; 256 P.464; 1927

HEADNOTES

- (1) **TAXATION - TAX SALES – CHARACTER OF PROCEEDINGS – DEEDS.** Proceedings on tax sales are *in invitum*, and every essential step leading to the execution of a tax deed must be strictly followed, or the deed executed pursuant thereto will be void.
- (2) **ID. – DELINQUENT TAXES – NOTICE OF SALE – DESCRIPTION OF PROPERTY.** A description of property noticed for sale for delinquent taxes as follows: "Portions E. of Greenhorn Creek of E½ of SW¼ of NE¼ of Sec. 15, Twp. 15 N., R. 9 E., Mt. D. B. & M., cont. 5 acres," is not uncertain, as it clearly includes *all* that portion of the specifically described land lying east of Greenhorn Creek, which portion consists of five acres.
- (3) **ID. - DESCRIPTION – SUFFICIENCY OF.** The following description of property noticed for sale for delinquent taxes is sufficient, to wit: "Portion E. of Greenhorn Creek of E½ of E½ of Sec. 15 Twp. 15 N., R. 9 E., Mt. D. B. & M., containing 80 acres."
- (4) **ID. – CERTAINTY OF DESCRIPTION.** A description of property noticed for sale for delinquent taxes as follows: "SW¼ (except part in Bear River) and S½ of S½ of NW¼ of Sec. 14, Twp. 15 N., R. 9 E., Mt. D. B. & M., containing 180 acres," is not uncertain.
- (5) **ID. – IDENTIFICATION OF PROPERTY – DESCRIPTION.** While it is true that a description of land for the purposes of taxation must be certain, yet the description is *prima facie* sufficient if the land can be readily identified and located so as not to mislead the owner.
- (6) **ID. – TIME AND PLACE OF SALE – DEFECTIVE NOTICE.** A notice of sale of property for delinquent taxes, the caption to which read, "Property to be sold at public auction on June 27, 1923, for delinquent taxes of 1918," and the body of which read that the tax collector "will be on the 27th day of June, 1922, at 10 o'clock A. M. of said day, and continuing each day thereafter, if additional time is required to complete the sale in the Tax Collector's office," and "will sell at public auction to the highest bidder for cash in lawful money of the United States, the several parcels and lots of property hereinafter described," is fatally defective, as it states neither the time nor the place of sale.

Numitor Gold Mining Co. v. Katzer (continued)

- (7) **ID. – TIME OF SALE – NOTICE – JURISDICTION.** The notice of the sale is statutory and jurisdictional and the court may not speculate as to the actual date intended to have been inserted.
- (8) **ID. – NOTICE OF SALE – SERVICE BY MAIL. JURISDICTION – RETURN OF NOTICE PRIOR TO SALE – VOID DEED – POSTAL REGULATIONS.** The service of a notice of sale of property for delinquent taxes by mail is jurisdictional, and where it is returned prior to the sale without having been delivered, it is an insufficient service of notice, and a deed executed pursuant to such a defective notice is void; nor is such jurisdictional prerequisite waived by virtue of the reason that the United States postal rules, in the absence of instructions from the sender to the contrary, require the return of the parcel prior to the expiration of twenty-one days required by section 3771a of the Political Code.
- (9) **ID. – POSTAL REGULATIONS – CONSTRUCTION – SECTION 3771a, POLITICAL CODE.** Section 956 of the United States Postal Laws, as amended in 1918, implies that the sender of registered mail may request the retaining of the parcel at its destination not to exceed ninety days; and the postal rules are not in conflict with section 3771a of the Political Code respecting the service by mail of notice of proposed tax sales.
- (10) **ID. – VOID TAX DEED – RIGHT OF HOLDER TO REIMBURSEMENT FOR IMPROVEMENTS OR BETTERMENTS – QUIETING TITLE – TERMINATION OF RIGHT OF WAY – EXPENSE OF LITIGATION – EVIDENCE.** Under subdivision 5 of section 3898 of the Political Code, an owner of property is not liable for the value of improvements or betterments placed upon the property by the order of a void tax deed; and in an action to quiet title to real property and to declare defendants' tax deed void on account of a defective notice of sale, the latter are not entitled to be reimbursed by the plaintiff for having instituted litigation to terminate a right of way across the property in question, without any showing that such litigation was likely to terminate favorably to the defendants, or that if it terminated successfully for the defendants the value of the premises would be enhanced.

**State Controller's Office
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